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# HOW ENGLAND IS GOVERNED

BY THE SAME AUTHOR  
TENNYSON AS A RELIGIOUS TEACHER.  
FROM THE ABYSS.  
IN PERIL OF CHANGE.  
F. O. MAURICE: A BIOGRAPHY.  
THE CONDITION OF ENGLAND.

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IN COLLABORATION WITH  
OTHERS  
THE HEART OF THE EMPIRE.  
TO COLONIZE ENGLAND.  
ENGLAND A NATION.

*First printed, March, 1921.*



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# HOW ENGLAND IS GOVERNED

BY

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165206.

20.9.21.

LONDON :  
SELWYN AND BLOUNT, LTD.,  
21 YORK BUILDINGS, ADELPHI, W.C.



## PREFACE

**I** HAVE here endeavoured to give a readable and intelligible account of how England is governed.

There are many elaborate text-books on the subject, bulky in volume, full of interest and of detail. They are written by experts. They provide explanation of all exceptions and anomalies. They are indispensable as works of reference. There are also, I am informed, many little books on 'civics,' usefully provided for middle forms in schools, which furnish those summaries of fact which are needed for the exposition of the teacher. Some of them are accurate and admirable. Others unfortunately reduce the subject to the same level of dreariness as the average text-book of history or mathematics. This is, in the main, due to the character of the subject, rather than to any defects on the part of the writer. It is almost impossible to make any small and summarized survey of history interesting; just as it is difficult to make any large and detailed account of any small section of men's astonishing record dull. So, while the author who can describe how his country is governed with sufficient space for simile and illustration is open to the charge of ineptitude

if he cannot make this palatable to any eager and interested mind, the compression into a school text-book of the bald facts of local and national Government, without exciting a distaste for the subject in the growing mind, must accompany something in the nature of genius in exposition.

I make no such claim for this volume. I have sought the easier course of a middle way. I have allowed myself sufficient space to enable the plain details to be cheered by illustration and personal reminiscence. And at the same time I have swept away all attempt to cover the subject in exhaustive detail. I have endeavoured to avoid the aridness of the presentation of detailed lumps of fact, sound, but a little indigestible. And I have laid myself open to the charge—as I frankly acknowledge—of making sweeping statements which, though as I believe, are true in themselves, yet require an elaboration of notes and exceptions for particular cases, if a complete and exhaustive account is to be given of the chaotic and complicated operation of English municipal and national Government.

I have, that is to say, obtained space for the luxuries of digression, illustration, and the record of personal experience, by frankly throwing over any effort to provide an authoritative detailed book of reference. I could imagine whole pages and chapters receiving criticism because I have not been able to find space for putting in every exception, or variation, or queer individual survival which makes in special cases divergence from the



average administration as I have described it. Had I attempted this, the volume must have swollen to twice its bulk and a large amount of the actual narrative submerged by reference to complicated records and clauses of Bills and descriptions ; of how while ninety-nine out of a hundred authorities can do this, the hundredth can only do that. Such an attempt would merely have made this book a challenge to authorities already accepted, for which I have neither time nor inclination.

Those who wish to obtain more detailed knowledge on these subjects may be referred to the writers and students who have already provided them with what they desire : to such works, for example, as ' Local Government in England,' by Redlich and Hirst ; or ' The Government of England,' by Professor Lowell ; or the late Lord Courtney's ' The Working Constitution of the United Kingdom ' ; Professor Ashley on Government in England, France, and America ; or the works of Sir Sidney Low. Or, for historic treatment, such volumes of permanent value as those of Mr. and Mrs. Hammond on the Town and the Country Labourer ; or The History of Local Government, by Mr. and Mrs. Sidney Webb.

The following chapters are less the product of the study than of the laboratory. As member of lesser civic organizations, later of Parliament, of the Government, and of the Cabinet, I have had experience of the practical working of the ' machine.' By a curious coincidence I have actually served in the great Central Offices which are specially concerned with the Government of

England—national and local: the old Local Government Board, the Home Office, and the Treasury. I have seen the machine from outside and from inside: from outside, as a critic of the Central Authority from amongst the local municipal authorities, or as an independent Private Member of the House of Commons challenging the Administration; from inside, as part of that Central Authority replying to the local criticism, or as a Member of the Government defying or placating the attacks of the Private Member. Perhaps this experience may put colour and interest into an account of organization otherwise of necessity tending to dullness and drabness, and help to make the 'dry bones live.'

My main object has been to endeavour to interest the citizen in the conduct of his own affairs. I have had in my mind especially as possible readers the classes who are just realizing what citizenship means—the students in colleges and the higher forms of schools, the men and women of the Universities, and that rapidly growing class of young Intellectual Labour which to-day is breaking through the former disability of poverty and discomfort, and is eagerly seeking knowledge of the government of this country, with a view to future active participation in it.

Lastly, I need hardly explain that I have endeavoured—and I hope with success—to keep every kind of political predilections out of these pages. To introduce controversy or to attempt insidious propaganda would be to violate the whole intention of the book.

It is essential that men should learn to think at all, before they can think wisely. It is essential that men should be stimulated to interest in the subject, before they can learn to think on it at all. To-day this country needs thinkers far more than partizans. Never has active concern in municipal and national life been so low—numbed by the experience of five years of war. If this volume can stimulate any increase in the actual consideration of these problems of civilized society and their solution, it will not have been written in vain.

C. F. G. MASTERMAN.





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PART I

THE MAKING OF A CITIZEN





# HOW ENGLAND IS GOVERNED

## CHAPTER I

### THE CHILD ENCOUNTERS LAW

HE comes into a world which shows no special joy at his advent ; ' without asking hurried hither whence.' As consciousness grows, and the sense of being ' I ' as against ' not I ' outside, he begins to learn the severe limitations of his being. He kicks solid substance, and receives a return in pain. He stands and falls. He finds that pleasant fire burns and water leaves him cold. He passes from conflict with dead matter to conflict with human will, equally unintelligible, equally monstrous. He is coerced by nurse or parent into doing things which he sees no sense in doing ; or refusing to do things which he greatly desires to do. But he can traverse many years from childhood, almost into growing youth, and long after blind impulse has been replaced by an appeal to reason, much of which he can understand, before he finds that the compelling influence of nurse or parent or teacher has outside and beyond it another force. That force sometimes appears altogether irrational, but deadly in its operations ; the restraint of the individual by the desire of the community as a whole, embodied in the form of Law.

It is true that this Law, like the angels of childhood's dream, has been watching round his bed since his first appearance in the world. But it has been watching vigilantly to protect him against evils which, in nine cases out of ten, he is unlikely ever to endure. Within

forty-eight hours after his arrival, his father, and the doctor or nurse who has assisted his entrance into the world, have been compelled by law to notify the important fact of his appearance to an official termed the Medical Officer of Health presiding over the district in which he lives. In reward for the labour of such notification, his parents will probably receive a litter of pamphlets explaining what food he should be given, how he should be washed and dressed, and what are the best methods for securing the continuance of his existence. If he is born of a poor family, his home will probably be invaded by ladies who are called Health Visitors, who will personally instruct his mother, whether she wishes to hear or no, on the things which belong unto his peace. If he grows up under normal conditions all is well. But if he is ill-treated, or starved, or neglected, or too excessively punished, other officials bear down on his home, and hale his father or mother away for punishment by either a fine or imprisonment. If he falls sick of an infectious disease, he is torn away from his home by the omnipotent agents of an impersonal Law, and transferred to a hospital with others, until he is dead or cured. And this is done not so much for his own sake—for if the disease is not infectious the Law does not disturb itself about him at all—but because his infection is a nuisance to others who may catch the disease from him.

And more and more as he grows up he will find this strange and impersonal power of 'Law' influencing his life in two directions: the one endeavouring to protect him from evils which might approach him from outside; the other endeavouring to cramp his activities and subdue his energies on the plea and pretence that these are a nuisance to other people. These other people, as he thinks, make the laws in conformity with their own ideas of comfort, indifferent to the expansive impulse of a growing child.

In the first class, for example, this 'Law' determines that, from the age of five upwards, he shall be a regular attendant at some national or private school, or that

his parents shall satisfy the servants of the Law that he is receiving education for the battle of life. If his parents are not sending him to such a school, or giving him such an education, or seeing that he regularly attends, whether he himself desires to or no, or whether they desire him to or no, this 'Law,' indifferent to all excuses, pounces upon them, and continues to inflict penalties upon them until they conform to its demands.

Again, if his parents are so poor that they cannot give him adequate food or shelter, or if they die and leave him alone in the world, or desert him and disappear with a similar result, the Law enters into his life, not as an enemy but as a friend. It provides that he shall not be left to die of hunger and cold. It takes his life under its protection. It feeds him, and lodges him, and teaches him, and endeavours to send him out into the world with an equipment not inferior to that which he might have obtained had the calamity not overwhelmed him, and left him with no friends but this strange, impersonal force. This force appears outside any human control; it is a vague, impersonal thing called 'the Law.'

But nine-tenths of childhood know nothing of these things. 'The Law' enters their lives, sometimes, quite suddenly, as a hostile thing. It is irrational. It is often cruel. It appears solely designed, as far as they can understand, to limit harmless activities, and to render actions impossible which no moral impulse within themselves tells them are wrong. In the country, probably, the Law will first appear to the growing boy as the prevention of 'trespassing.' He can walk over some fields and not over other fields. He can walk along a path through fields and meadows which he will come to know later as being a 'right of way.' He is threatened with penalties if he varies his course by a hair's-breadth one side or another from this 'right of way.' He will find when he is grown up that he is allowed to walk on these foot-paths over privately owned land simply because, for many scores or hundreds of years, men and women have always walked on these foot-

paths and for no other reason. And he will find everywhere that the most bitter fights have been fought, sometimes leading to riot and bloodshed, between those who want the people to continue to have the right to walk over these paths, and some owners of the land who wanted to deprive them of that right. In one great estate a right of way ran through the park, close to the castle of a great landlord ; and the landlord, who did not wish to see people continually passing just under his windows, tried to stop the ' right of way.' But ' the Law ' decided that the right of way belonged to the people. Upon which the landlord said : ' If the people have a right to walk through my park, they have no right to see my castle.' And he put up two great wooden walls, higher than a man's head, one each side of the ' right of way,' so that the people could see neither to one side nor the other, but walked through the park as through a kind of pipe or drain. Thus, though he completely spoilt the view of the people, he also completely spoilt the view of his park. This is what men do who are angry when ' the Law ' goes against them.<sup>1</sup>

But the boy will also find paths where he has no right of way,' and fields that he cannot cross, and gates that he may not open, and hedges which he is forbidden to creep through, and he may see notices put up, ' Trespassers will be prosecuted,' or ' Spring-guns set,' or ' Man-traps set,' and he may be frightened into avoiding these regions. Or he may trespass, and risk the consequences ; and he may be turned off from the land where he thinks he is doing no harm, or even threatened

<sup>1</sup> I do not mean to suggest by this that all, or even any substantial minority, of the landlords of England are vigorous in enforcing whatever law exists against trespassing. But I remember as a child wandering into the country, seeing notices asserting ' Spring-guns set,' or ' Man-traps set,' designed to terrify the boy or adult into limiting his excursion to the king's highway. And one of the first statesmen in England has shown me the actual places where his child-mind was embittered against the landlords by the notices ' Trespassers will be prosecuted,' set up over woods and fields which the young mind was determined to explore.



with prosecution and punishment. He does not know that he is unlikely to be punished for trespassing unless he has done damage ; and not then, if he offers to pay for the damage he has done.

And this hostility of ' the Law ' to him gradually grows up in a number of ways around him, until he comes to believe that ' the Law ' is only a great instrument for the protection of the rich and the powerful, and the oppression of the poor. He may not fish in rivers, although nothing can prevent him fishing in the sea. And he cannot understand why, if he may fish in the sea, he may not fish in the river also. He may not catch hares or rabbits, or in some cases take birds' eggs at certain times, while at other seasons he may. He cannot keep a dog unless he pays to this queer thing called ' the Law ' so much money a year, not for the expense of the dog, but just for permission to keep a dog. But he can keep many cats or rabbits or guinea-pigs without ' the Law ' interfering at all. These and similar restrictions make him wonder what sense, if any, remains behind this ' Law.'

And in the towns ' the Law ' appears to the growing child still more incomprehensible and still more hostile. The policeman at the corner represents its embodiment, and is alternately his enemy and his friend. At one time this policeman is holding back the traffic of the street, in order that he may pass safely across the road, or politely telling him the direction of the way he wants to go. At another time he is pouncing on him suddenly for smoking a cigarette, or playing at marbles or games of cards for pennies, or making noises, or kicking a football, or even larking about in a violent fashion on the pavement because he is ' making a nuisance ' of himself. For all such things ' the Law ' can fine or punish him. He may attempt to decorate a public bridge or building with illustrations drawn in chalk, which he thinks adds greatly to its beauty. He is suddenly hauled away by the policeman who has observed his artless action, and finds himself in innocent misery in the clutch of ' the Law.'

Sometimes the operations of this Law appear entirely capricious and senseless. This is often due to the fact that 'by-laws' will be made by different authorities which are adjacent to each other, by which an offence committed in one of these is not an offence in the other. Thus, a few years ago (when I was at the Home Office) some of the Borough Councils of London passed by-laws making it an offence to indulge in roller-skating on the pavement. Others did not. The boundaries between these Councils ran down the middle of the street. The youthful roller-skater was therefore perplexed by the fact that if he pursued his wild career on the pavement on one side of the road, no evil could befall him. Whereas, if by some mischance he chose the opposite pavement, he was committing an offence for which he might be arrested by a policeman, and subject to punishment.

And as he grows older he continues to see 'the Law' for the most part as some inhuman impersonal force, outside his control, laying down impositions, some of which may seem to him good, some evil, but all of them as if contrived by a power outside himself to restrain and to prohibit things which he may or may not desire to do. 'Do not spit, penalty forty shillings,' is the elegant notice appearing in his tram-car or railway-carriage. Why should he not spit? And why is the penalty forty shillings? And who is to impose the penalty? And when? And how? His whole life is encompassed with such half-imbecile commands shouted at him from printed placards, as if the eye of some strange monster was turned on to him and watched him alike in darkness and daylight. 'Do not enter or leave a train in motion, penalty forty shillings.' Why should he not enter a train in motion? He always enters in motion a bus or tram. If there is a funeral it is his own, not that of the power which shouts behind the placard. There is a strange mixture of sense and non-sense about it all, as if it were designed by a being normally insane, but disturbed by occasional flashes of reason. Thus he can see why he is forbidden to take

explosives with ordinary luggage; why there is a 'penalty forty shillings' for pulling the communication cord in a moving train; why he must not put obstacles on the line; and why he may not travel without a ticket. But why, on the other hand, should he be forbidden to buy articles in a shop on certain afternoons when the shop-keeper is there, and the shop open, and the articles are there, and each are only anxious to trade with each other? Why may he not cross the railway-line except at appointed places? Why may he not be allowed to enter an inn and obtain refreshments except between certain hours? Why is it wicked, for example, for him to buy a glass of beer at five o'clock, and not wicked for him to buy it at six, when the inn is open and the beer is there to quench his thirst?

These operations become more inexplicable when he passes from school into the working life of the community. 'The Law' swoops down on his wages, and compels him to surrender some pennies of them every week, to be spent on a stamp to be affixed to his insurance card, quite indifferent to whether he wishes to be insured or not. It promises him in return a doctor whom he does not want, and medicines which he detests, in an illness which he does not believe he will ever endure. In some trades he is compelled to wear a mask and undergo washings and take drugs and foods, under conditions which he has no desire to observe, on which he has not been consulted at all. These conditions he is always trying to elude. In others he is only allowed to work a certain number of hours a day, although he is quite willing to work more hours for more wages. Or he is forbidden to work at night, or he is not allowed to lift certain weights, or go near certain machines. 'The Law' does indeed give him compensation in certain accidents—so many pounds for a lost arm, so many for a lost leg. But here also it appears entirely capricious in its action. If his employer has sent him on a message through the streets, and he is run over by a motor, his employer has to pay compensation. But if he is run over by the same motor in the same street on his way

from his employer's office to his home, the employer does not have to pay him any compensation at all.

Gradually, however, all this growing life passes into one of two phases: dull acceptance of 'Law' as something outside, or realization of what 'Law' really means. In the acceptance by men and women, no attempt is made to ascertain a reason or to find a remedy for it all. As the older races of mankind acquiesced in the misfortunes of humanity as being the work of gods who might be placated with offerings, but were moved by no human sentiments of justice or compassion, so the majority of men and women to-day accept 'the Law.' They accept it as some dull force, which is to be eluded wherever possible, and avoided whenever possible, but which has no sort of relation to the kindly and tolerant life of the common people. Inspectors come and go, and their only object appears to be to intrude and to annoy. If they can be avoided, well; if they can be deluded, well. All people ask is to be left alone, as freed from the all-seeing and savage eye of a 'Law' whose only purpose is to harass and disturb, as from the all-seeing and savage eye of a god who inflicts tremendous punishments for trivial sins.

But to the second class there comes an awakening. It may take the form of an exact examination through a term of years. It may take the form of some such sudden revelation as that given in the older religious revivals in the form of 'conversion.' It is an awakening to two facts. The first is that no law exists which has not had at one time a meaning, and that all laws are by their nature transitory—that they are continually being born, attaining power, becoming altered or destroyed. And the second is that this birth and death of law is not performed by some strange and remote entities ruling in a world in which this man has no place. It is performed by himself, and the millions of others like himself.

'Though poorly fed and sorely tasked' if, as a great orator has said, on the one hand he is a '*miserable*,' on the other he is a god.

And when he has understood this fact all life becomes changed to him. He has the power to destroy bad laws and to create good ones. He will set himself at once to the task of change; from that childhood which can only endure laws imposed, to that manhood which, if it cares to exercise its influence, can alter the history of the world.



## CHAPTER II

### THE CHILD BECOMES A CITIZEN

**A**T the age of twenty-one he may become a citizen of the State. When he becomes a citizen, he has a right to vote for the rulers of the State. Who shall be rulers of the State, and how they shall rule is entirely settled by the votes of himself and other citizens like himself. No one else has any say in the matter.

At the age of twenty-one also he may become a voter or 'burgess' in the town in which he lives. He can then decide by his vote how the town shall be governed, and who shall govern it. It is a little harder to become a voter for the Town Council than for Parliament. That is because every one who has to decide who shall govern the town is supposed to occupy some property in the town—to have a stake in the town. But every man over twenty-one, whether he occupies some property or not, has a right to vote for Parliament which makes the laws and governs the whole country.

The State takes a good deal of trouble and spends a good deal of money in making those who live in the country into citizens of the country when they grow up. It enrolls the man of twenty-one as a citizen, and gives him a right to vote, without telling him anything about it. But it takes no trouble and spends no money in telling him when he has a vote, or when he has an opportunity of voting, or how and where his vote should be given. But for the newspapers, and the work of private societies and individuals who want his vote,

he might never know he had a vote, or when he could use it, or to whom that vote should be given.

How does he get his vote?

Twice every year the list is made up of men and women who have a right to vote if an Election should be held. These lists are made up and altered twice a year, even if no Election takes place in the interval. You may have had many such lists carefully made up, and thrown away, and other new ones replacing them, between one Election and another. But when an Election comes, then the latest list made up before it is used.

Anyone who has his name printed on that list may vote if he wishes. No vote is allowed from anyone whose name is not printed on the list. Even if he has all the qualifications, he is sent away miserable if his name is not on the printed list. On the day of the Election the printed lists are the only things that matter. At most Elections you will see scores or hundreds of men turned away from the polling booths because, though they thought they had a right to vote, their names, for some reason or other, were not on the printed list.

On the other hand, if your name is on the list, even if you are not qualified, the officer who is presiding cannot refuse your vote. In the days before women had the vote for Parliament it sometimes happened that a woman's name and address appeared by a mistake on the printed list—the Parliamentary Register. In those cases she could vote just like the men and her vote could not be refused. The names of children under age—sometimes quite small children under ten—have sometimes appeared on the register by mistake. It is said that if these children tried to, they could vote, and no official could legally refuse to let them do so. Some presiding officers, however, say they would tell them to 'run away and play.'

It is a duty laid upon the 'Registration Officer,' who in the towns is the Town Clerk, to make up the correct



list of voters twice a year. If he does not carry out this duty, he can be subjected to a fine of £100.

He employs 'canvassers'—persons who call at each house to make inquiries. He can also send out letters to the occupants of the houses asking them to answer questions on who are living in these houses, and who ought to be put on the register of voters. His 'canvassers'—who are paid as a permanent or temporary staff—have the lists of the old register with them. They call from house to house and street by street. They find out in each house which of the old voters has died ; which have moved away ; if any new voters have moved in ; if any boys who lived there have become men of twenty-one since the last register was made. They cross out the old names and add the new ones.

The registers are made up twice a year—on the 15th January and the 15th July. A man has a right to vote in any district which returns a member to Parliament—called a constituency—if he is twenty-one years old on the day before the register is made up ; if he is 'residing' in that constituency on the day before the register is made up ; and if he has 'resided' for the six months before that day in the same house or in a house in the same constituency, or in the same town or county or in the town or county which is adjoining to the town or county in which he lives.

Thus to take a few simple cases :—

A boy is working out and living at home. He has lived at home for the six months before July 15th. He is twenty-one years old on the 1st July. His name is entered on the register which is made up on the 15th of July. He has become an elector.

A man lived in one house until March 23rd. He then moved to another house in the same town. He is living in that house in the same town on the 14th of July. He is entered as a voter for his new house.

A man moves in April from Birmingham to London. The canvasser in July finds him living in London and desiring a vote. But he has not 'resided' for six

months in London or an adjacent district. So he cannot get on the July register. He can get no vote until the following January. In the July register of Birmingham he is struck off as not residing there the day the register is made up. If an election takes place while that new register is in force, he cannot vote anywhere. He has been struck off Birmingham and not yet got on to London. If he moved about like this every six months he would never get a vote at all. If he stays on in London, he will get a vote on the register which is made up on the following January—nine months after he moved there. And he will be able to use it after the register comes into force, three or four months afterwards.

If, however, he moves away after the register is made up, he can still vote in the place from which he has moved, if he is still on the register. Suppose he lived in Birmingham until the end of January and then moved to London, his name would be on the register for Birmingham, which is made up on January 15th and comes into life on the 15th April. Its life lasts until the 15th October, when its successor takes its place. Now if an Election takes place in Birmingham between April and October, the man who moved to London at the end of January will still have his name on the Birmingham register, and will still be entitled to vote in Birmingham.

Only he will have to go to Birmingham to do so. He cannot send his vote by post as the soldiers did from France and Belgium just after the war. In every Election held on what is called a 'stale' register, there are always a large number—hundreds or sometimes thousands—of these 'removals,' as they are called. Their votes can often decide Elections. Great efforts are made by the candidates and their friends to persuade them to come back to the place in which they once lived in order to vote.

It was once not impossible for these candidates to pay the railway fare of these voters if they would come and vote for them. That is now illegal. A candidate

can be prosecuted, and if he has won, can be unseated (i.e., turned out of Parliament) if he pays such railway fares. He can, however, without penalty, send his carriages and motors, or the carriages and motors of his friends, to bring up to vote those of these 'removals' who will vote for him. He dare not pay a railway fare of threepence. He can spend three pounds on petrol and tyres of a motor. When an Election is a close one, these men are brought up from all over the country. When I once had a close Election at Bethnal Green in London, I borrowed about a hundred motor cars and sent them all over the country to bring up these voters—twenty, sixty or a hundred miles away. My opponents did the same.

No condition can be made that the men you have brought up shall vote for you. A man might have moved to Brighton and write and say, 'I am your supporter, please bring me up in a motor and I will vote for you.' I might send for him to Brighton and bring him to Bethnal Green and he might then go in and vote for my opponent. I cannot possibly tell whether he has voted for me or my opponent. But a certain sporting element in the country, and a sense that this is not 'playing the game,' prevents this thing being often done—but there is nothing against the law in doing it.

These 'removals' are all swept off the register when it is next revised. But meantime a fresh crop of 'removals' has grown up of men whose names are on the new register, but who have moved away to other districts since that new register was made.

You can move—in the six months—to adjacent towns or counties without losing your vote. You are then always on the one register or the other—the town you moved to, or the town you moved from. But you lose your vote for a time if you move to a town or county not adjoining. This rule produces some strange results. A man may move from (say) Staines, in Middlesex, to Poplar, in London, without losing his vote. He passes straight from the register of Middlesex

to the register of Poplar. That is because London and Middlesex are adjacent. But if a man moves from Ealing to Paddington (also in London) then he loses his vote for a time. Paddington is much nearer to Ealing than Poplar is to Staines. But Ealing is a town, and there is a piece of Middlesex between Ealing and London, and, therefore, Ealing is not adjacent to London, though it is nearer London than Staines. Such are some of the queer things still left by the law.

On the 15th of January and the 15th July the lists are closed. The Registration Officer then has provisional lists printed and published. Publishing them means providing them in the Post Offices or sticking them up on the doors of churches or public buildings. Any one can go into any Post Office and ask to see the list of voters,

Anyone who thinks he ought to be a voter, and whose name is not on the list, can 'claim' to be put on the list. The Registration Officer then has to hear the reason for his claim. If his claim is a good one, he is put on the list and becomes a voter.

Anyone looking at the voters' list who sees a name on it whom he thinks for some reason should not be on the list, can make to the Registration Officer an objection to this name. The man whose name is objected to is then told by post that an objection has been made. The Registration Officer hears the objection and the answer to the objection, and decides which is right. If the objection is right, the name is struck out.

In the case of a 'claim' or 'objection,' if anyone is dissatisfied with the decision of the Registration Officer, he can appeal to the County Court, and the County Court will hear the case and either maintain or reverse the decision. Any 'claim' to be put on the register has to be made within eighteen days of the publication of the lists, and any objection to a name on the register within fourteen days of such publication.

Cases may be doubtful for a variety of reasons. A man may be really under twenty-one, and have said

he is over. He may have not 'resided' six months before the day of making up the lists. It is very doubtful what 'residence' really is. He may be away four months from illness out of the six. He may spend part of his time in one house and part in another—in the country. He might be an undergraduate in a University and spend six months in college and six months at home.

In such cases, where the 'law' is doubtful, anyone dissatisfied with the decision of the Registration Officer may appeal to the High Court of Justice—the Court of Appeal.

The Registration Officer is supposed to have settled all these claims and objections a few weeks after the publication of the provisional lists. Three months later, on the 15th April or the 15th October, the actual voting list is published. That is in force for six months. There is no further change or appeal. The men and women whose names are printed on that list will decide how England shall be governed, and who shall govern it, if, in the six months while it is alive, a General Election comes.

The register and the conditions of getting on to it, are a little different in voting for the Town Councils and Local Authorities, from voting for the House of Commons.

The difference is that, in the vote for the town the voter is supposed to be a citizen in the town, with a stake in the welfare of the town; occupying some property on which he has to pay rates, either directly, or through the rent he pays to the landlord, who then himself pays the rates on that property.

The qualification to become a 'burgess' of a town for a man over twenty-one is that he shall 'occupy' some premises in the town for six months before the election register is made up. A man, for example, who is living at home with his father, even if he possesses a separate bedroom, is not occupying any premises, and, therefore, has no municipal vote. A man living in furnished lodgings is held to be not occupying the



rooms in which he lives, and has no vote. A man is occupying, however, if he is living in unfurnished lodgings, even if he is using hired furniture. Whether he is 'occupying' if he hires the unfurnished rooms from his landlord and hires (separately) the furniture in the same rooms from his landlord remains a doubtful question.

But a man may 'occupy' by the rent of any tenancy, however small. There is no limit of value at all. If he hires an allotment for 10s. a year he can get the vote for that hiring. He can get the vote for the hiring of a tennis lawn, or a boat house, or a motor garage, or a dog kennel. It is possible that even when living at home, if he has complete control over his own room and a separate latchkey, and pays his father rent for it, and his father will give him as a present the furniture of his own room, that this would count as a separate occupation, and give him the right to a municipal vote.

The same qualification as the vote for the Town Council, if he lives in the town, gives him the right to vote for the County Council or Rural or Urban District Council if he lives in one of the districts ruled by these; or for the Election of Guardians.

Let us next consider the present qualification of a woman for the vote: first the right which she has long enjoyed for voting for the local authority—town or county council, etc.; then the qualification for the right which she has only just been given for voting for the House of Commons.

A woman, in order to get on the 'burgess roll,' must either 'occupy' premises herself, which, if not a dwelling-house, must be worth £5 a year or more; or must be the wife of a husband with whom she is living, who is occupying such premises. Any woman over twenty-one who occupies such premises, or whose husband occupies such premises, is placed on the burgess roll.

A woman who is thus placed on the burgess roll is qualified by the same conditions for voting for Parliament when she is thirty years old.



There are thus two distinctions at present between the right of a woman to vote for Parliament and the right of a man. Most people think that the only difference is that a woman shall be thirty and a man only twenty-one. That is not so.. A woman must occupy premises, or be married to a man occupying premises. A man (for Parliamentary, not Local Government votes) has merely to live within the constituency for six months before the register is made.

The distinction may be understood by a concrete example. Consider a big house in which menservants and maidservants are both living. Every manservant living-in will have a Parliamentary vote at twenty-one. No woman servant will have a vote, whatever her age, as long as she 'lives in.' If she lives in a cottage near the house and pays rent for it, she will have, if over thirty, a vote. If she and another servant jointly occupy a cottage, both will have a vote.

To take another example, where a family is living together. If a grown-up son, over twenty-one, is living at home, he will be put on the Parliamentary register and have a vote. If his sister, over thirty, is living at home under exactly the same conditions, she will not have a vote. If, however, the family give her a separate room and she pays rent for it out of her wages, and pays rent for the furniture in it, she could probably claim a vote, though the claim might be disallowed. The law has not yet decided that point.

There is another point about the Parliamentary register which affects a small number of Electors only. It gives a limited number of persons two votes each for Parliament. They may not use these two votes in the same constituency. But if a man lived in one constituency and occupied business premises in another of a value (in the case of a man) of more than £10 a year, he is put on the registers of both constituencies, and when the time comes, if he wishes to, he can vote in both.

The best example of this system at work is the voting in the City of London. Hardly anybody lives within

the actual boundaries of the City of London. The whole of the City is made up of offices and shops and business premises. If a man does not live in the City, but 'occupies' a shop or office with a value of more than £10 a year he has a Parliamentary vote for the City. He may live at Hampstead, or Ilford, or Tooting. He has a vote in these divisions because he lives in them, and he has an additional vote for the City—or for any other district where he has occupation of such shop or office.

Men and women who have taken degrees at certain Universities have also votes for these Universities. But at a General Election a voter cannot give more than two votes. He may 'reside' in Kensington and be on the Kensington register. He may also 'reside' in a seaside cottage at Margate and be on the register for Margate. He may also have an office in the City, and be on the register for the City of London. He may also be a graduate (i.e., have taken a degree) at a University. He will then be on four Election registers, and at any by-Election, in any one of them, he can vote at any of these four places in which his name appears. But at a General Election he is actually forbidden to vote at more than two. And if he votes at more than two, knowing that it is illegal so to do, he is subjected to penalty for so doing.

The second vote (for business premises) is, however, negligible compared to the whole. It is reckoned that some seventeen million Electors are on the registers of the United Kingdom on the residential qualification, and only about one hundred and fifty-nine thousand possess the additional qualification of a vote for the possession of premises outside the constituency in which they live. England has very nearly at this moment both the One Man One Vote which was the cry of one pre-war political party, and the One Vote One Value which was the cry of another.

Lastly it may be asked, if these are the qualifications of the Electors, what are the qualifications necessary for those whom they elect?

For Parliament the qualification is simplicity itself. A man must be a British subject over twenty-one years old. A woman must be a British subject over thirty years. No other qualification is required. They need not themselves be qualified as voters, or possess any property, or occupy any premises. If they are British subjects, and not certified insane, and not clergymen, and not members of the House of Lords, and not serving a sentence in prison for felony, and not undischarged bankrupts, it is enough.

The Town Council is more particular. Anyone on the Burgess Election roll may be elected a member of the Town Council. But that roll requires six months qualification of 'occupation' of a dwelling-house or business premises within the town boundaries. In addition to this, any man or woman over twenty-one is qualified who has lived a year previous to the Election within the boundaries of the town. If he has been elected on this qualification and leaves the town, he has to resign his seat as member of the Council. He cannot continue like a 'Removal Voter' as a sort of 'Removal Councillor.' If his qualification is the Register Qualification, he can continue (if he has been elected) to be a member of the Town Council so long as he continues on the register. This may be six months (no longer) after he has moved away. But he cannot continue unless he continues to attend a certain number of meetings of the Council. The town is very jealous that no one shall have a voice in its government who is not identified with the interests of the town, and sufficiently a resident and ratepayer as to be affected personally by its good or bad government.

## CHAPTER III

### THE CITIZEN CHOOSES HIS RULERS

**A**N Election for Parliament must come once every five years. It may come much more frequently. In practice, in peace time no Parliament lasts five years. It will not be long, therefore, in any case, before the citizen who has been registered as a voter will find himself in the position of taking his part in deciding who shall govern the country.

The State gives very little actual notice to the voter when anything is happening or what he is expected to do in the matter. It 'publishes' certain information by sticking up notices on Church Doors, or Town Halls, or sometimes in Post Offices. But the voter as a rule does not study the litter of notices on Church Doors or visit the Town Hall to know what is going on. But for the newspapers, the work of the candidate and his friends to get the Elector to vote, and the work of great organizations—the 'Party Organizations'—to which the candidate generally belongs, he would receive practically no information or guidance at all. Many Elections take place, especially for such minor public bodies as the Board of Guardians, in which not one in ten of the voters ever know that an Election is going on, and not one in fifty of the registered Electors takes the trouble to vote.

There is no 'quorum' in an English contested Election. If only one vote is recorded for one candidate and none for the other, the candidate with the one vote is declared elected.

Nor is there any attempt in England officially to

persuade or compel a man to use his vote. He may have had a right to vote for fifty years and never have used it. Just as much effort is made to put his name on the register as if he had voted at every Election.

Nor is any attempt made officially in public or private lists to record which Electors have voted and which have not.

The principles of all Elections for public bodies are the same. Later on we may note variations in Local Elections. But in general it is sufficient to describe the method of the simplest Election of all—that for representation in Parliament for a constituency which is allowed to return one member.

After Parliament is dissolved (or a vacancy for any reason has occurred) the Mayor of the town gives notice that an Election will be held for Parliament. He announces that on a certain day and between certain hours of it, he will attend at the town hall to receive 'nominations' for any candidates who wish to be members. If more than one candidate is thus nominated, he appoints a day when a 'poll' of the Electors will be taken, to decide which of these candidates the constituency would like to send to Parliament.

The first suggestion that anything is going to happen will probably come to the Elector through the newspaper. He will learn in the newspaper that Parliament is going to be dissolved, and a new Parliament elected. Later he may read that candidates have been chosen by different political Parties for contesting the right to represent in Parliament the district or town in which he lives. But his first definite knowledge that something is going on will be by receiving through the post a document called the 'election address' of a candidate. If there are many candidates there will probably be as many election addresses. These documents are delivered free at the house of every Elector to whom they are addressed. Each is probably printed in colour, the colour being that which has been chosen by the Party which has chosen the candidate—perhaps



Yellow for Conservative, Blue for Liberal, Red for Labour. Each will probably have a portrait of the candidate at the top, and a portrait of the candidate's wife. Each will be written as a letter beginning: 'Ladies and Gentlemen,' or 'To the Electors of X——, Dear Sir or Madam.' Each will explain that the candidate has been invited to come forward and stand as a candidate for the representation of X—— in Parliament. Each will explain how much he loves X——; what he has done for X—— already (if he is a local man); how much more he will do for X—— if he is elected. Each will give the chief points in the programme of the Party which he supports, and perhaps throw scorn on the programmes of the other Parties. Each will give lists of the principal meetings where the candidates and their friends will speak, and where he will answer questions put to him by any Electors. Each concludes with the request, expressed with an air of deference and humbleness, that he may count on that Elector's support.

Pretty soon things begin to liven up. Meetings are held in halls and schoolrooms at which the rival candidates address audiences, friendly, unfriendly, or indifferent. Advertisements appear on the hoardings, or are carried round by sandwich-men, with pithy, short sentences in the different colours, 'Vote for A the friend of the poor,' or 'B is a winner,' or 'Out with C.' Pictures are also plastered up, such as that of a melancholy looking man gazing on a dead fire in a bare room, labelled 'A Victim of Free Trade,' or 'A Victim of Protection,' or 'A Victim of Capitalism,' or whatever else he may be explained as being a victim of. Meetings develop from schoolrooms and halls to outdoor gatherings, and men with strong voices and leather lungs get on boxes or carts outside factories, or in places where people gather, and shout out the virtues of their candidates and policies, or the wickedness of their opponents. In the majority of cases, however, the great bulk of the Electors never go to meetings, and if they did would be too confused by the



rival orators to understand how they should vote. So all candidates and organizations depend mainly on the machinery of what is called 'canvassing,' and on 'canvassing' the result of an Election mainly depends.

'Canvassing' sounds as if it were something mysterious. There are many persons who object to it, and would like to have it abolished by law. But it cannot be abolished by law, for canvassing is just the calling of one man upon another to talk over with him how he should give his vote, and to persuade him to give it to his friend. In practice, each Party opens little Committee Rooms all over the district, to each of which certain streets are assigned. Registers are bought and split up, and the clerk in charge copies out on separate cards or separate pages of a little book the name and address of every Elector in these streets. Men and women who are eager for their Party or candidate to win come to these Committee Rooms, and each takes out a certain number of these cards. There is a space on each to mark the probable vote of the Elector 'For,' 'Against,' 'Doubtful,' and any 'Remarks.' The canvasser calls on the Elector whose card he is carrying, and calls again and again until a personal interview is obtained. He then says, 'I come on behalf of Mr. A—— (say) the Conservative candidate. Will you vote for Mr. A——?' The Elector may say determinedly 'Yes.' He is marked 'For.' He may say determinedly 'No,' and that he has made up his mind to vote for Mr. B—— or Mr. C——. He is then marked 'Against.' If he shows any irresolution, the canvasser tries to explain why Mr. A—— and the Conservative Party are the right people for him.

This persuasion is a fine art. There are good canvassers and bad. Some do their cause more harm than good. The art is to find out what the Elector really cares for of all the various promises and programmes, and then to explain that this is what Mr. A—— really cares for. It is also to get in friendly relations with the Elector. A patient canvasser will let the Elector speak his opinions and grievances for a long time. He

will promise to come and call again. He will bring little books and pamphlets explaining why Mr. A—— is the man to vote for. If the Elector is independent, he will congratulate him on his independence. If the Elector says that no man can persuade him how to vote, he will say that this is exactly the kind of voter that is needed, that he himself would never attempt to persuade such an Elector, but that he was only giving him some facts and principles which will help him to make up his mind for himself.

In some districts canvassers are hated. In some, especially in the north of England, they receive no information from most of the Electors, who say that voting is secret. But in others, especially in the poorer quarters of London, the Electors often think that the canvassers have a legal right to question them and that they are obliged to reply. In these districts, therefore, a large number of the Electors promise to vote for all the candidates of all the Parties, a promise which often upsets the calculation of the people who are organizing the elections.

Meantime, the authorities have been doing their work, quite indifferent to all this noise and agitation. The Mayor announces that he will sit in the Town Hall between certain hours on a certain day to receive 'nominations' of the names of any candidates who wish to be elected members. Each candidate has to be thus 'nominated' in writing by a mover, a seconder, and eight other supporters, all of whom have to be electors on the register. Each of these has to sign his own name on the paper.

On the appointed day and at the appointed hour the candidates arrive with little groups of their supporters, at the Town Hall, and hand in their nominations to the Mayor. They generally shake hands with each other to show there is no ill feeling. They generally hand in a large number of nomination papers in order to make sure that one of them is quite correct. The Mayor checks one of these papers with the list on the register, and if the names are correct, and no objection is taken,

he accepts the candidate as having been legally nominated.

The candidate or his agent then has to hand over a sum of money to the Mayor to pay for the expenses of the Election. He must hand this over in cash or notes; he cannot do it by writing a cheque. Many candidates in the past have forgotten this, and after weeks of labour have found themselves disqualified and their nominations refused at the last minute because they had forgotten to change their cheque into notes, and could not do it before the time-limit of the nomination had expired. This is the only country in the world where a citizen who wishes to stand for Parliament is not even allowed to become a candidate until he has handed over a considerable sum of money to the State Officer who is conducting the Election. If, however, in the subsequent poll he gets more than one eighth of the votes of those who poll, he will receive his money back again. If he gets less, he has lost it for ever.

This plan is devised to prevent too many candidates standing at any Election. It is difficult to see what objection there is to any number of candidates standing. The law allows any British citizen, if a man over twenty-one, if a woman over thirty, to stand as a candidate for Parliament in any district in the country. Canadian, Australian, Indian, have thus all stood for Parliament, and many of them have been elected. But in practice it is very rare for anybody to be elected unless he is a member of and assisted by one of the great political Parties. Very occasionally an 'Independent' candidate gets elected, but he is generally backed by some other force, such as a big newspaper, or enters at a time of great excitement because he has taken up some special thing in which the people are interested. Thus at the time of the famous Tichborne trial, when all England was excited over the case of a man who came from the Antipodes and claimed to be the heir to the Tichborne estates (who was supposed to have been drowned), the people of a big town elected

to Parliament the lawyer who had defended this man against the charge of perjury, because they were all on the 'claimant's' side. And there have been other similar cases where, for a time and generally for some such special reason, the Electors of a constituency have preferred some 'Independent' man to the Party candidates.

When the nominations are over, if only one man has been legally nominated for one seat, the Mayor acclaims him duly elected Member. This is what is called being 'returned unopposed.' In the Parliamentary Elections there are generally some Members who are so certain to be elected that no one thinks it worth the trouble to fight them, and who are, therefore, 'returned unopposed.' This is far more common in Municipal or County Council Elections.

If more than one candidate is legally nominated, the Mayor declares that a poll of the Electors shall be held on the day appointed for the purpose by the Government. All such Elections are held on one day, and generally between the fixed hours of eight in the morning and eight at night; although these may be extended, on application, to from seven to nine.

The announcement of this coming poll with the names of the candidates and those who have nominated them is posted up at the Town Hall and sometimes at church doors, etc., but once more the State takes no trouble at all to inform the voters when the poll is, or where it is, or who are the candidates, or what are their opinions. Although the Election is of supreme importance and can alter the lives or ruin the careers of millions of citizens—even the information as to who they are to choose to rule them is left to private enterprise.

After the nomination and before the Election the Elector will probably receive a second communication from each of the candidates. This is called the poll-card, and is delivered free of charge to every Elector. It generally takes the form of a little card, printed (by the candidate) in the colour of the Party to which

he belongs. It gives on it the name and address of the Elector, the number of the Elector on the register and the place where he votes. It also gives a little model ballot paper printed just like the official ballot paper, with a cross against the name of the candidate who sends it, and the request 'vote thus.'

Many of the Electors think that these are sent out by the State, and that they cannot vote unless they take one of these to the polling booth with them. Some try to put these cards into the ballot box until stopped by the authorities. The different Parties on the day have generally men standing outside with the colours of their candidates conspicuously displayed. These men collect the cards from the people as they come out after they have voted, each collecting the cards of his own party. Many of the voters think that they are obliged by law to give up their cards to these men. By such means each Party can see how a large number of the Electors have voted, and the spirit of the ballot is thus violated. These cards, as a matter of fact, have no legal value or recognition at all.

On the night before the Election the work of persuasion is finished, and in the Committee Rooms the agents of the candidates destroy all canvass cards except those with the names of Electors who have promised to support their side. The sole object during the day of Election is to get all these to vote.

This is not done without very great effort. From before eight o'clock in the morning a picked body of helpers are scattered all over the district, hammering at the doors of the citizens, and reminding them that they have promised to vote. These citizens are given no peace until their vote has been recorded. They are hunted up in cellars and streets and public-houses, and places of work and business. They are rushed in from outside if they are 'removals,' in various vehicles. Sometimes they refuse to come unless motors are sent for them, and then the motors available are hastened to the spot, and you can see a whole street or village riding in triumph to the polling booth. The sick and



cripples are also brought up in carriages ; and it is very rarely that any excuse for not voting is accepted. People who have promised to vote for more than one candidate find themselves worried by the canvassers of more than one, and there are often humorous disputes as to which he or she promised first, and to whom he or she rightly belongs.

Most of the voters wear the colours of the candidates or their portraits in a little button, and thus completely evade any idea of secrecy. They also come up in vehicles which are gaily decorated with the colours of one or the other Party. And it is a point of honour generally only to ride in the carriages of your own side, although some keen and cunning politicians make it also a point of spirit to do exactly the opposite.

The voters often enter the polling stations asking ' Where do I vote for Mr. Smith or Mr. Jones or Mr. Robinson ? ' and generally it may be accepted that in English, as distinct from Scottish elections, the extraordinary elaborate precautions taken by the State to preserve absolute secrecy inside the polling booth are completely nullified, in the case of nine out of ten of the Electors, by the efforts of all the Parties to penetrate that secrecy outside.

What exactly then happens in the polling booth, and what is the exact nature of an election by ' ballot ' ?

A ' polling booth ' is merely a name for any building which the Mayor or Returning Officer has obtained or hired for the purpose of taking the poll. It is generally a public building, such as the Town Hall or the Elementary School. Each polling booth has allotted to it all the Electors on the register in a certain district. In each polling booth is placed on the day of Election a number of officials under a ' presiding officer.' This ' presiding ' officer has been appointed to see that the poll is carried out legally and in orderly manner in that polling booth. Very often for convenience there are subdivisions within the booth, further dividing up the register according to districts in which the voters live.

The Elector, arriving at the polling station, is directed



by policemen outside into the polling booth. He finds a large room with a counter on one side of it, behind which are clerks sitting, perhaps divided up into sections, marked A, B, or C. On the other side are a number of little hutches on a counter, very similar to the places in the post offices in which telegrams are written out, generally with pencils attached to string in each hutch. In the middle, or near the door, is a big oblong tin box, standing upright on a chair with a slit in the top like a letter box. Otherwise the room is empty.

The would-be voter is approached by the presiding officer, who is walking about the room, and is asked his number, name and address. When he has given his address he is directed to go to the counter at which his particular street is dealt with. Here are two clerks, one with a printed book of ballot papers, the other with a copy of the register. The printed books have the actual ballot papers attached to counterfoils by perforated lines. Each counterfoil is numbered, and has the same number as the ballot paper attached to it. The voter gives his name, say, Smith, 85 Green Street. The clerk with the register turns to 85 Green Street, finds Smith entered against it, asks perhaps his Christian name for identification, finds he has not been ticked off as already voted. The answer being satisfactory, he calls out to his colleague the number affixed to the name of Smith in the register, say '8050.' The colleague writes that number down on the counterfoil of the ballot paper, tears off the ballot paper itself from the counterfoil, stamps it with a secret sign and hands it to the voter. The counterfoil and the ballot paper each have the same printed number, say '3021,' the number being printed on the back of the ballot paper. The voter goes to one of the hutches and makes a cross there against the name of the candidate he wishes to vote for. He then folds up the paper, drops it into the tin box, and walks out of the polling booth ; thus having done all that he can do to change the history of the world.

Each candidate has a right to have a representative in the polling booth to look after his legal interests there. All these as well as the officials have to take an oath before a magistrate, that they will keep absolute secrecy as to anything that happens inside, and can be sent to prison if they break it.

The chief object of these representatives is to prevent what is called 'personation.' There are always a certain number of Electors who are away, or who cannot vote for some reason, or who have died since the register was made up. The officers have no list of these, and are indeed obliged to accept the vote of every one on the register, dead or living. But each Party has tried to compile a list of these dead and absent voters, and each Party tries to prevent all the dead and absent voters who are not on their side being 'polled' by people who 'personate' them.

In very close Elections where the majorities are small, these dead or absent voters, if personated, may decide the Election; and often strong efforts are made to get their votes recorded. In Ireland, where personation was a fine art, scarcely a close Election took place without a number of personators being caught in the act; and it is said the cemeteries were emptied and, for this day only, the dead come to life again. Such personation is an offence against the law, but as here both sides do it, it is difficult for either to prosecute. And it is also an offence, for which he can obtain damages, to detain a man for personating if he is not doing so.

A story runs that in one Irish Election it was cleverly arranged that a list should be betrayed to the opponents which was supposed to be a list of the dead; but was really a list of some live voters. Early in the day of the Election, these live voters (who were in the secret) marched into the room, tried to vote, were all challenged by the opponent who thought he had the secret information, and detained by the presiding officer. They loudly protested their innocence, sent out for their wives and children who identified them,

and were one after another released loudly protesting their grievance and demanding damages. The representative who had challenged them was thus completely scared and baffled, and late in the afternoon, when he was afraid to challenge anybody, the other Party polled their real dead men and won by a small but triumphant majority.

Many Electors do not know that there is any harm in personation, and think they have every right to vote for a relation or friend who cannot vote for himself. Often such a relation or friend writes to ask the voter to vote for him, thinking it is quite legal that he should do so. This confusion is made more difficult by the fact that in certain cases so called ' proxy ' voters are now allowed. A man may now vote for an Elector who is in India or China if it has been previously arranged that he shall have received from the absentee definite legal authority to vote in his place. He can then give this vote as well as his own vote. It is very difficult to explain to the plain man why he cannot vote for his son who is too ill to go to the poll himself, but who tells him exactly how he wants to vote, while his neighbour who has a son perhaps in Mesopotamia, who has never even heard of the Election, is allowed to give his own son's vote without consulting him at all.

The method of dealing with personation is as follows : The name of the voter is challenged by the agent, who thinks that the man who is claiming the vote is not the voter. The presiding officer then informs the would-be voter that he has no right to vote unless he is the man on the register, and if he persists in his determination, administers to him an oath to swear that he is the man on the register. After he has sworn this he receives the ballot paper, which is filled up in the ordinary way and put into the box. He may, however, be detained until he can prove his identity, and if he is proved to have sworn a lie, can be prosecuted and put into prison. Many attempts are made at personation which break down under the test of the oath ; the would-be voter muttering that there must

be some mistake, and very rapidly evacuating the polling booth.

If a person comes to record a vote which is ticked off on the register as having already voted, he is given a pink ballot paper instead of a white one. These pink papers are kept separate from the other votes, and only counted if there is a scrutiny or petition.

If a voter is illiterate or blind or otherwise incapable, the presiding officer records his vote for him.

When the clock strikes at the appointed hour of closing, the doors of the polling booths are closed, and only those are allowed to vote who have already received ballot papers from the clerk inside the booth. The tin ballot boxes are sealed up, and then all carefully removed and collected at the central station, generally at the Town Hall, where the votes are to be counted.

The Elections are arranged by the Government and take place all on one day. The 'counts' take place on the same day or the day after. The Mayor and the staff of clerks assemble at the Town Hall with the ballot boxes, all of which have been brought there. The candidates, their agents and some of their friends are also allowed to be present. Every one present has to swear an oath of secrecy before a magistrate, and can be prosecuted if he reveals anything of what he has seen. The clerks of the different districts unseal and open the ballot boxes of their own districts, and turn the papers out on a table. They first go rapidly through all the ballot papers, seeing that every paper has the secret sign which was stamped on it when it was given out to the voter, and also that the number of papers correspond with the number which they each gave out on the day of voting as recorded in their book of counterfoils. If the number is greater, or the box contains ballot papers without the secret sign, they know some one must have slipped forged ballot-papers into the box. If the number is less they know that some of the ballot papers must have been lost, or that some persons must have taken away or

destroyed their ballot papers instead of putting them into the box.

When all these things have been adjusted, the papers are all put again in the boxes and the papers of all the boxes are mixed together. This is in order that no one should know what way any particular village or ward or polling district has voted. The clerks then divide up the ballot papers thus mixed together and proceed to count the number of votes for each candidate. This is generally done by sorting them into heaps, each heap representing the votes for one candidate, and then tying them up into little bundles of fifty or a hundred with the names of each candidate printed in colour tied on to each bundle. The counting is challenged by representatives of each side who are looking on, and it is very rarely that even the best clerks do not make some mistakes and have not to be corrected. Any paper concerning which there is any doubt is thrown out into a separate pile, and the others are thrown together and rapidly added up.

The doubtful votes are then judged by the Mayor in agreement with the candidates or their agents. In very close voting these doubtful papers become of very great importance as they may decide the Election. In judging them two rules are observed. The first is that it must be clear which candidate the voter intended to vote for. He need not necessarily make his cross in the little square place where his cross should be. Crosses made over the name of the candidate are counted for that candidate. It has even been decided by some officers that crosses shall count nearest to the name of the candidate, even if they are on the margin of the paper, but others object to this, as they say it gives an advantage to the name that stands first on the paper. The theory is that men who vote late and who are perhaps a little exhilarated tend to put their crosses on the upper half of the paper, and give an unfair advantage to a man whose name begins with A over a man whose name begins with Z.

Of the second kind, all writing is held to disqualify



a vote, as writing is supposed to be able to be identified. Thus if a voter put a cross against the name of his candidate and also wrote 'good man' against it, the vote would be disallowed, because it might have been a secret arrangement that this voter should write 'good man,' made with the candidate, and the candidate or his agent looking on would know how he had voted.

There are scarcely any Elections in which some voters do not ruin their papers by excess of zeal. If they cross out the name of the candidates they hate, the vote is recorded, and no harm is done. If they write as some do, 'dirty dog' or 'napoo' over the name of the candidate they dislike, their votes are disqualified. Some solemnly write their names and addresses at the bottom of the ballot paper—others write their register numbers. All such are disqualified. Some put crosses against all the candidates' names. I have known no Election in which some such papers have not appeared at the end, for what reason no man knows. Some take all the trouble to come to the poll and get a ballot paper in order to write 'both rogues' or 'all three fools' over it, and having solemnly dropped this into the ballot box go away feeling happier. In the War Election of 1918 quite a number of soldiers who sent in their votes from abroad wrote sentences like 'You wait till we come home,' on their ballot papers. Sometimes a new Party will try to estimate its strength by means of the ballot. The Socialists, for example, once instructed their followers in certain places, where no Socialist candidates were standing, to write 'Socialist' across the papers. When they learned officially the number of spoilt papers they could form a rough estimate of the number of Socialists in the district.

The Mayor having thus agreed with the agents on the allotting of the doubtful papers to each candidate, any which are still challenged, being reserved—those allowed are added to the totals already arrived at; and thus the final number is decided. The Mayor then

calls for silence, and reads out in order of votes the names of each candidate and the votes recorded for him, saying at the end, ' I declare Mr. A '—the candidate who has the greatest number of votes—' duly elected Member of Parliament for the borough of X.' From that moment Mr. A has ceased to be one of the many private citizens obeying the laws of his country, and is in process of becoming one of the very few public citizens having the right to make the laws for his country.

Mr. A then will propose a vote of thanks to the Mayor and his officials for the splendid and efficient way in which they have carried out the Election. He will generally add that he will do his best to look after the interests of the borough of X in Parliament. He will explain what good sportsmen Mr. B and Mr. C have been, and how no ill-feeling remains. Mr. B and Mr. C will second and support the vote of thanks, testifying to the splendid and efficient way the Mayor and his officials have carried out the Election and explaining what a good sportsman Mr. A is. These sentiments will be received with cheers by the supporters of each candidate and the public in the gallery. Mr. A, Mr. B, and Mr. C., will then solemnly shake hands with the Mayor and with each other and the supporters of each with each other. As until the day of the Election each was denouncing the other in public for opinions which would ruin the nation, and a character which permanently unfits him for public service, these concluding amiabilities sometimes strike the detached observer with amazement. But this is the British method of concluding all contests ; in the desire, above all things, whether winning or losing, to be thought ' a good sportsman '—in a dog fight, a football match, or a Parliamentary Election.

It is curious to note that although this method of Election seems so simple, it is rare that no mistakes are made. In most close contests the losing side demands a ' recount,' and in nearly every case of a recount the figures vary from the first calculation,

sometimes so much as to upset the first decision. Bundles of fifty or a hundred votes are mislaid or omitted from the total or counted to the wrong side. Sometimes mistakes are made by the officials themselves. In one Election the district officer wrote the register number of the Electors on the actual ballot papers themselves instead of on the counterfoils, and the votes of all these Electors were disqualified through no fault of their own.

Even after the day the member has been declared elected he is not out of the wood. In the four weeks following his opponents are allowed to demand a scrutiny, or to present a petition for what is called illegal practices, or a petition for corrupt practices. A scrutiny is the only occasion on which how any single Elector has voted is revealed to the world. This revelation can only take place by tracing the number of the vote on the ballot paper to the similar number on the counterfoil, and then from the register number marked by the clerk on the counterfoil, when the vote was given out, to the name of the voter in the list who is registered to that number.

There is a common idea in some quarters that anyone, by sending 'a shilling to London,' can find out how anyone has voted. That is not true. There is also an idea that the 'Government' if it likes can find out how any one has voted. That is also untrue. The ballot papers are in the hands of the Mayor, and it would be his duty to destroy them sooner than give them up to 'Government' if 'Government' demanded them. In any case, twelve months after the Election all the papers are destroyed.

Many wives and mothers of soldiers in the Election of 1918 voted for the Government because they thought that the Government would find out how they voted, and if they had voted against 'Government,' 'Government' would not bring home their husbands and sons as quickly as those who had voted for 'Government.' Their fears were needless. Even in a scrutiny, so careful is the law about the secrets of the ballot, that

it is only when a vote has been definitely decided to have been an improper vote that the secret is revealed of the way that vote has been given.

Scrutinies are often very exciting and filled with sporting elements. Supposing the candidate against whom the scrutiny is being conducted has been declared elected by, say, eight votes. His opponents endeavour to knock off one by one nine of the votes which they think have been illegally recorded for him. They will prove that one man was dead, or another was away at sea, or another was improperly on the register as under age or being of the wrong sex, or wrong name. If they succeed in thus disproving nine votes of candidate A, candidate B is one up and would be declared elected by one vote. But now the friends of candidate A come up with their list and proceed to try and knock off votes of similar kind from B until B is down one vote again, and then B's friends attack A's votes again. And so they go on day after day until all the lists of votes they can find any reason to challenge are exhausted, and one is left, elected generally by one vote. As the ballot is secret sometimes the most absurd results follow. The friends of candidate A will spend the whole day disproving the right of an Elector to have voted, and when the judges have agreed to this, and the secret of the ballot is revealed, it is found that his vote was actually recorded for candidate A, to their great disgust, and the joy of their opponents.

In an Election petition, no revelation is made of how any Elector voted, but the winning candidate can be unseated for violation of the Election law. This does not mean, however, that the other candidate or the candidate next to him is elected. It means that another Election is held in which he himself is not allowed to be a candidate. In an Election petition for illegal practices, the candidate may be unseated for doing things which the Election law forbids him to do, but which are not things wrong in themselves. Such things are, for example, spending on the expenses of



the Election more than the amount which is allowed by law, or having more Committee Rooms than a certain number, or bringing voters to the poll in hired vehicles, or not having a printer's name on a poster, or giving away flags or favours or coloured ribbons or hiring bands of music. There are few, if any, candidates, who do not break some of these rules often quite unconsciously through their agents. And in such petition the judges can, if they like, give 'relief' to such candidates, and impose no penalties, even although the law has been broken. In some towns all sides so continuously break the laws in these matters that no side brings a petition against the other, knowing that they are not guiltless themselves.

A petition for a corrupt practice is for something which is obviously wrong quite apart from technical rules, such as, for example, bribing a voter with money, or treating a voter to a drink, or intimidating a voter to vote for you. No relief can be given here if the facts of 'corruption' are proved.

If none of these scrutinies or petitions are launched within twenty-eight days of the Election, the successful candidate, on taking the oath of allegiance to the Crown, has become a Member of Parliament until the next General Election occurs. He is not allowed by law to resign his seat, nor is he disqualified by not attending regularly, or even by not attending at all. He may spend all the time the other side of the world. He will still be Member of Parliament for the district for which he was elected. That district has no power of getting rid of him, even if every Elector signs a petition to Parliament and the King, praying to be rid of him, and however much they may dislike what he does or what he does not do. And he himself can only escape from the office by death or by becoming a bankrupt, or a felon, or being certified a lunatic, or by becoming a peer, or accepting an office of profit under the Crown. But if he accepts an office of profit under the Crown, he is obliged to vacate his seat and give to the Electors a chance of saying whether they want him for their Member or no.



This provision was made in order to prevent the Crown bribing the Members of Parliament by giving them lucrative offices in return for persistent support. Gifts of various kinds are given by Governments to-day, but the direct bribery of a Government appointment carrying a salary is thus avoided, except under the conditions that the Electors approve of it and re-elect him to Parliament. The forbidding of Members to resign after being elected is an inheritance from the days when, with uncertain and unsafe communications, it was difficult to persuade the knights of the shires to consent to serve in this capacity, or to find one to replace any who had been elected to the work. In practice this difficulty to-day is evaded by the fact that the Speaker of the House of Commons has in his possession the gift of two offices which are technically offices of profit under the Crown, though they carry no profit with them, the Stewardship of the Chiltern Hundreds and of the Manor of Northstead. Any Member, therefore, who wishes to retire except in disgrace, the Speaker solemnly appoints Steward of the Chiltern Hundreds or the Manor of Northstead. By accepting such office he vacates his seat; he does not stand for re-election; he immediately resigns his stewardship; and every one is happy in so pleasant an evasion of an archaic law.

PART II

THE

GOVERNMENT OF THE CITY



## CHAPTER IV

### LOCAL AUTHORITIES AND THEIR HISTORY

EVERY town, village, rock, marsh or waste space of England is under the overlordship and control of some local authority. If it is not crystallized out of the general territory as a borough, it comes within the scope of a county. Apart from county or borough again it must be in some parish. And the parishes, generally united together, have definite functions to perform, especially in connexion with the preventing of people starving who have no money or food. There are public roadways and heaths and commons open to all freely, men, women, and children. But each public roadway has to be maintained by some public authority which is responsible for its upkeep. There are vast stretches of private land from which you would think the owners could keep out intruders, and establish the position that every Englishman's house is his castle. But this castle, though protected against private citizens, can establish no barrier against the representatives of these public authorities. They can investigate and inspect his house and lands, and mulct him of moneys in proportion to the value put upon them for expenditure decided by elected bodies far away, over which he has no control. So that, whether he wills or no, he is forced to contribute substantial sums in proportion to the alleged annual value of his houses and land ; to pay for roads which he has never seen ; or drainage and lighting which he never uses ; or the maintenance of poor, in whom he takes no interest.

He might say : ' I do not wish to use your roads ; or if I do, I am willing to pay for each journey on them.

I dig my own wells. I have my own drainage system. I make my own electric light. I will pay for my own children's education. I have nothing to do with the poor, though I am willing to contribute to charity if you will assure me it is well spent.' But he cannot thus play Robinson Crusoe in twentieth-century England. A variety of local authorities will fall upon him, and suck out from him, whether he protest or no, a rate for the upkeep of roads, for lighting and drainage, for the education of other people's children, for the support of the unemployed and unemployable poor.

All these authorities are indeed elected by the system which I have already described. And, at intervals, the exasperated 'ratepayer' may attempt to change the persons and policy of any of them. But he is only one among all the others, and only counts as one, and can only give one vote in an anonymous ballot; having only the same power, therefore, even if he pays thousands of pounds in rates from the castle, as the dweller in the cottage who only pays a few shillings, or thinks that he pays no rates at all.

It is difficult within a reasonable space to give any intelligible account of these various authorities, with their various functions, often different in area, or overlapping in area. They would appear in a map like a jig-saw puzzle. They are in part the inheritance of an old England, with many centuries of history behind it; like the 'rolling roads' of England whose praise Mr. Chesterton has sung—so different from the straight-driven national roads of Europe and America. The map of an English town, compared with that of a new American city, exhibits a contrast almost between a drunkard's paradise and a community, from the first 'Pussyfoot.' In the latter are the firm, straight, rectangular streets, numbered regularly in order, 1st Street to 275th Street up and down; and 1st Avenue to 80th Avenue side by side. In the other, the roads go merrily reeling round non-existent barriers, writhing and curving like snakes, opening into useless wide spaces at one point, narrowing into intolerable and



dangerous crevasses at another ; and bearing not regular numbers but all sorts of artificial and flowery titles. So that it is quite impossible for the stranger, without a map and the kindly policeman, and the always affable passer-by, to find the 'Acacia Villa' or 'Beaconsfield Terrace' where he wants to go.

And the same zig-zag and tortuous inheritance of time is exhibited in the local government of England. No sane man would ever dream of imposing such a system upon a new country. There are a variety of elected bodies, some of which have laid upon them the duty of performing the same functions in the same area ; some of which have the functions of coercing the others if these others do not do as they are supposed to do. All of them are supposed to be kept up to their work by the Central Authority (the Local Government Board, now the Ministry of Health at Whitehall), which is responsible to Parliament for their right working. But the powers of the Ministry of Health, especially in connexion with the larger and more powerful authorities, are vague and exceedingly difficult to enforce. And as a matter of fact, persuasion or impeachment before the bar of public opinion is almost the only practical step it can employ. All of them normally hate each other, and all of them normally hate the Central Authority. The greater authorities are continually trying to absorb the smaller ones surrounding them, and the smaller ones are continually and fiercely resisting the process. And these struggles provide a secure and ample remuneration for a large class of Parliamentary lawyers, agents, etc., at the expense of the ratepayers of all.

There is, therefore, manifest a double confusion of purpose between different authorities, each operating in the same area ; a confusion of functions and authorities within the same boundaries ; and a confusion of boundaries. The first confusion was largely intensified by the action of the legislation of the nineteenth century. Such legislation created a series of new public functions, and whenever a public function was

created, it set up a new elected authority to carry out such a function. Thus, the Act of 1834 set up Unions of Guardians to deal with the poor ; and the Act of 1870 School Boards to deal with Education ; and the Act of 1889 County Councils to deal with roads and police and the like ; and the Act of 1894 Parish Councils and District Councils—the latter to deal with sanitation, small holdings, etc., the former with allotments and the parish pump. All of these had separate or competing duties. All of them raised money from the citizens. All of them were elected independently of each other. All of them spent with efficiency or extravagance, immensely varying between place and place, the money they extorted from private pockets. The citizen would find with consternation a Parish Council demanding a parish rate, a District Council demanding a district rate, a Board of Guardians demanding a poor rate, a School Board demanding an education rate, a County Council demanding a county rate. And all these exactions were imposed quite apart from the taxes which he had to pay to the Central Government for the defence of the country and the carrying on of its varying enterprises. His whole time might have been occupied in endeavouring to understand what all these bodies were doing, in criticizing their actions, or in attempting agitation to change their policy.

The second confusion is of area and boundary. Populations gathered together where none had been before. Coal mines would open in the midst of quiet meadow land. Marshes and sand-dunes would be developed into great ports. On waste heather and moorland would grow up factories and furnaces and huge centres of industry. Little towns that for centuries had been limited to boundaries representing the old city walls of defence, would suddenly swell out like gourds, and bursting, splash all over the neighbouring country-side. You would think that any rational people would, from the first, have made provision for such changes, and arranged that by some simple and

almost automatic system, aggregations of population where none were before would become cities, and cities would push back their boundaries to make these conform with their natural expansion. But the expansion of the British city population seems to have come unexpected and undesired, and after centuries of practically stationary numbers. No such automatic arrangement has ever been achieved. The consequence is a series of bickerings, inefficiency, open conflicts, and waste expenditure, which must sadden the heart of the good and promote cynical reflections in the mind of the wise.

Outside the boundaries of the growing cities, the population, as it spreads, is gathered up under independent local authorities. These local authorities endeavour to ape the habits of the central township, and to develop into separate cities of their own. Sometimes they are cities of the comparatively rich, and fiercely resist being absorbed into the region which contains both rich and poor. Sometimes they are cities of the extruded poor, growing up beyond the town limits, rather like the leper colonies developed beyond the mediaeval city walls. And here the central town has no desire to bring them within its limits, and the pressure rather comes from those who would push them in from outside. For many purposes it is found impossible to limit the activities of the central organization within its own borders, and this especially where those borders are completely surrounded by settled streets and populations ; as, for example, in the Metropolis, where 'London' is merely like the central core of an onion completely surrounded by thick leaves. And so you have the extraordinary exhibition of such a core having been given the right to penetrate into these leaves with or without their permission, and carry on activities there. London is given the extraordinary power of building houses, and planting great populations of poorly-paid persons in the region which these other authorities control. You have, therefore, the curious spectacle of its planting down what are in effect

considerable parasitic towns of the working-classes, in places like Tottenham or Ilford or Barking, to the infinite disgust of the population already resident there ; who find themselves saddled with the burden of building schools, providing parks and playgrounds, engineering drainage, etc., for a low-rated and generally prolific working-class population, which they neither desired nor deserved.

There is scarcely a thriving town in England which has not thus broken through its boundaries, and in which any rational autocrat in twenty-four hours could not draw round with a pencil fresh boundaries and say : ' This is the town as it exists to-day. This is London ; this, Birmingham, Manchester, Liverpool, and the like.' No such rational autocrat and no such power exist. The unifying of a town requires many years of strenuous effort, of violent controversy, and of extravagant expenditure of the ratepayers' money. It is computed that the work of making greater Birmingham, for example, into one city absorbed the energy of a decade, and wasted over half-a-million of the ratepayers' money, mainly on lawyers' and agents' fees. For it could only be effected by the promoting of a private Bill in Parliament, which any persons affected could pay lawyers to oppose. The result is, you could number almost on the fingers of one hand the successful efforts which have been made in the past twenty years to unify any great expanding town. And the surroundings of any great developing centre remain, as far as local government is concerned, in a condition of chaos and confusion.

This litter of local authorities, except where created for special purposes, with new names, can all be traced back in their origins to one of three entities. There is first the ' shires ' of the country-side, a region of indefinite jurisdiction, of woodland and heath and common land, and feudal ownerships. These are sometimes almost independent, and often warring each against the other. Gradually some order arises out of chaos ; two visiting judges are appointed by the King



to administer High Justice within its boundaries; the leading landlords are formed into Justices of the Peace to administer the Low Justice; and two knights of the shire are sent up to London, or wherever the High Court of Parliament is sitting, to confer with the King on the welfare of the country and especially the raising of money for the King's service. The Assize of the King's Bench remains practically unchanged, and judges still visit the shires every year as Judges of the High Court. The Justices of the Peace having had all the apparatus of local government super-imposed upon their original service, have now had this work removed from them and pursue still their original function. And the Knights of the Shire, together with their town brethren, form to-day that House of Commons which has come to assume the supreme authority in the Government.

Secondly, there is the borough: a little walled town, with its gates open at sunrise and closed at sunset; and within, a huddle of high-roofed, gabled, wooden houses and great churches, and narrow, darkened streets. And here there grows up a population of burgesses with a continuous tradition, very tenacious of their rights against king or noble, and with increasing assertion of their authority to rule the internal affairs of their own community as they pleased. They pass, indeed, through a dark time when the general body of the citizens are being deprived of power, and for centuries the city life is both inert and corrupt, far different from the great semi-independent cities of the Continent. But in the end they assert their power again, and grow in vigour and strength, and forget the days of their limitations, and only remember the tradition of a splendid past.

And there is, thirdly, the parish, at first almost entirely ecclesiastical in character, centring in the parish church and parish priest; and coming gradually to cut up into parishes the whole land of England, less for civil than for religious purposes; in order that no single human soul should be left without the right



to the ministrations of some priest at the periods in life and death when such ministrations were necessary for salvation. The great Elizabethan Poor Law threw on these parishes a work not religious, but secular : as perhaps a substitute for the old religious charity of the destroyed and disendowed monasteries. For by this law these parishes were made each to support their own poor, and to appoint overseers of the poor, who were to levy a rate upon the property of the parish, in order to raise the moneys required to keep these poor from starvation.

The second great Poor Law of 1834, although it completely changed the methods by which the poor were to be kept from starvation, retained the old parish or parochial settlement system, only uniting parishes together to form Poor Law Unions in order to provide larger economic areas. But the ' Overseers of the Poor ' who carried out this work, remained as the officials who conducted the valuation of property upon which the poor rate was based in proportion to the value set upon it. And all the rates which have since been levied have been in the past, and are still to a large extent to-day, founded on the valuation and assessment made by the overseers for the purposes of the Poor Law.

These overseers had also the duty of making up the parochial register, which provided the list of voters at the time when voting depended on the property qualification, represented by the amount at which house or land was valued by the overseers for the poor rate. And that also remained until yesterday, and in part remains to-day, the means by which lists of voters are made.

Although I cannot pretend to give even the outline of the history of the past hundred years which have created out of the shires, parishes, and cities, the present authorities in local and central government, a few relevant facts and dates may perhaps be helpful.

In 1832 the great Reform Bill started the whole machinery of change in both central and local govern-

ment. Roughly summarized, this disfranchised a number of 'rotten' and non-existent boroughs, abolished much of the corrupt 'freeman's' vote, and distributed the seats thus made vacant, among the counties and the new great towns. It transferred power from the great landed proprietors to the shop-keepers, manufacturers, professional classes and farmers. In other words, in commonly accepted jargon, it put the middle classes into power. These middle classes reigned supreme for some thirty years. In 1867 Disraeli's Reform Bill, completely transformed in character by the House of Commons of the day, extended the vote practically to household suffrage in the towns, thereby partially transferring the centre of power to the artisans in the cities; while maintaining the rateable value standard at such a height as to exclude the low-rated cottages of the agricultural labourers. For the next twenty years the power is in the hands of these town workmen, who satisfied their desire by putting, first, Gladstone into power in 1869, then Disraeli into power in 1874, then Gladstone in power again six years after. In 1884 the third great extension of the franchise took place, giving the vote for the first time especially to two classes, the lodgers who occupied no house and paid no rates in the towns, and the labourers occupying low-rated cottages in the country. This, the greatest extension of all, and the one most feared by the propertied classes, resulted in the Conservative party being in power for over sixteen years of the next twenty succeeding. Finally, in 1918, came the biggest of all franchise reform Bills, which established the system as I have described it. It has practically established manhood suffrage, and an enormous addition of women voters.

Only one further change is conceivable. In a Bill making the qualifying age of the woman voter the same as that of the man, giving the woman exactly the same qualification as a man, and clearing up minor anomalies as to residence, it will be easy to effect complete adult suffrage. This should see the end of

the emancipating process which it has taken a hundred years to complete, for beyond this Democracy can no further go.

The middle-class Parliaments were, on the whole, Liberal or Radical in character, and effected certain changes which are still the subjects of political controversy, such as, for example, the giving of Free Trade ; which was, as a matter of fact, effected by a Tory Prime Minister. But their chief title to fame rests, perhaps, in that reform of local government in England which is now recognized by men of all parties to have been essential for the welfare of the country. That reform was not effected by the great families, Whig and Tory, with whom the power lay previously, and it was effected without the support, and in many cases with the obvious hostility of the working people ; to whom, indeed, it caused the suffering produced by drastic excision of a running sore. As I have said, they found an inheritance of three elements disconnected with each other. The first were the parishes in which the overseers, nominally elected by practically defunct vestries but in reality controlled by the county or shire authorities, the Justices of the Peace, were committed to an overwhelming burden of a poor rate for a system in which those who worked supported those who were idle, and those who supported themselves were mulcted in huge sums to pay in effect part of the wages of those who worked for others.

They found, secondly, the counties or shires controlled by the Justices of the Peace, and run from Quarter Sessions. These Justices were appointed for life by the Crown from the big owners of land, and combined the work of administering justice with that of maintaining local government.

In the midst of these shires or counties there had grown up great masses of urban populations in the new industries outside the old cities, with water supply, drainage, houses, public health, etc., in an appalling condition, only modified, if at all, by the work of 'Improvement Commissioners,' appointed for the

purpose by the Central Government, and with the power of levying a rate to mitigate the most formidable evils.

In the cities themselves, among the old municipalities, with their charters and their corporate life, they found things still more chaotic. The ancient tradition of a town controlled by the votes of all the burgesses in it, had largely perished. Each city was controlled by a tiny minority of 'freemen,' mainly created because they were bribable for Parliamentary purposes. The whole presented an unparalleled combination of inefficiency and corruption. So far as they administered the life of the town at all, it was almost entirely confined to the control of the very inadequate police, and of whatever corporate revenues the town possessed. Of all the commonplace apparatus of civic life to-day, the provision of pure water, of an efficient sewage system, of paving and lighting the streets, of dealing with infectious diseases, of parks and playgrounds and baths and libraries, of a standard of house accommodation or house decay, they knew and cared nothing, and would have been amazed at the assertion that a municipality or town council had any authority or obligation to interfere in these matters. Disease was endemic in the crowded warrens where the poor lived. It spread at intervals to the region of the wealthier classes. At intervals, such products of dirt and insanitation as cholera, a dreaded name in the England of that period, swept through these cities with the force and terror of the mediaeval plague.

The first attack of the first Parliament of reform was on the first of these evils, which was indeed bringing the social life of England to almost irretrievable ruin. The great Elizabethan Poor Law of 1602 had been, perhaps, the most remarkable piece of communal charitable effort devised by any modern State. The community definitely took upon itself the responsibility of arranging that no men or women should perish of hunger or cold in the cities or country-side of England; and it threw upon each parish the obliga-

tion of maintaining its own poor. But after two hundred years of effective operation it had fallen upon evil days. In some cases there were more poor than parish. In others, masses of idle men, women, and children, were kept doing nothing at all at the expense of the industrious. In others, the children of the parish were hired out in gangs to factory, mine, or workshop, who were glad to use their labour in return for their keep. In others, again—and this perhaps was the most fatal system—the poor of the parish were let out to farmers or other employers under arrangements by which the farmers paid impossibly low wages, and the rates paid the supplement necessary for living at all. In other words, all men were fined in order that the farmer should be provided with the cheap semi-servile labour of an ever-growing pauper class threatening to reduce whole parishes to bankruptcy.

The new reform Parliament united the parishes into big Poor Law Unions for poor law purposes. It created 'Guardians of the Poor' to administer poor law relief. It prohibited relief being given to the able-bodied, and by compelling these to come into the 'workhouse' as a condition of receiving assistance, it destroyed the whole system of providing out of the poor rate a levy in aid of wages.

The operation was drastic, and extraordinarily unpopular. One may judge that they went too far in the purely penal and almost brutal elements of terrifying men away from any public assistance, and substituting fear rather than compassion as the sole relationship between the State and its least fortunate citizens. The English poor passed through a stage of intense suffering; of a revolutionary agitation born of that suffering, which nearly overthrew the social order; and of a great emigration which probably alone averted that upheaval. 'In want, in terror, and with a sense of the crushing injustice of the times,' is the testimony of a contemporary writing of these emigrants, 'they cursed the land in which they had been born.'

The middle classes who supported these reformers



were not entirely innocent of the imputation that so long as they were freed from the burden of paying the poor rate they did not much care what happened to the poor. But the conditions were hazardous. The system devised by these men has lived to this day. And experience has proved that although there may be open great opportunities, hitherto neglected, for wise and compassionate treatment of the very poor, it was an immense reform which lifted the bulk of the working classes from the condition of rate-aided paupers to that of independent, free citizens.

The reformers proceeded always by the same method. They first appointed Royal Commissions of a number of men of high position and integrity who reported to the nation the actual facts of the case. These facts, in an England without railways, telegraphs, cheap postage, or a popular newspaper press, were scarcely known to the general public. In the immediate shock and scandal of the revelations, they pushed through changes which would probably never have been effected in any normal atmosphere.

From their attack on Poor Law administration in the parishes, they passed to an attack on the administration in the towns. And the revelation of chaos and corruption of the Royal Commission of 1833 resulted in the Municipal Corporations Act of 1835; 'a change,' says a brilliant foreign observer, 'as great as the Reform Act of 1832, or the Poor Law of 1834.' They found, for example, great cities ruled by tiny bodies of 'freemen,' many of whom were poor, bribable and habitually bribed. So that, for example, in a city like Plymouth of 75,000 persons, control was entirely in the hands of 437 freemen, of whom 145 were non-resident. They found the municipal revenues utilized for banquets and junketings, and the corporate income turned to the profit of individuals, or spent in bribery and illegal practices at Parliamentary elections. Such inheritances as the ancient educational endowments were subjected to similar treatment. At Derby the school only contained one pupil, and in Coventry an

endowment of nearly £1,000 a year was expended on two masters teaching one scholar.

Their report in its summary affirmed that in the great majority of the towns there was a general and just dissatisfaction with municipal institutions, a distrust of the self-elected municipal councils, a distrust of the municipal magistracy 'tainting with suspicion the local administration of justice, and often accompanied with contempt of the persons by whom the law was administered, and discontent under the burdens of local taxation ; while revenues that ought to be applied to the public advantage are diverted from their legitimate use, and are sometimes wastefully bestowed for the benefit of individuals, sometimes squandered for purposes injurious to the character and morals of the people.' ' We therefore feel it to be our duty,' is the historic and scathing indictment, ' to represent to your Majesty that the existing municipal corporations of England and Wales neither possess nor deserve the confidence nor respect of your Majesty's subjects, and that a thorough reform must be effected before they can become what we humbly submit to your Majesty they ought to be, useful and efficient instruments of local government.'<sup>1</sup>

The Bill which swept away this astonishing system practically established the government of the cities as we know it to-day. It provided Town Councils elected by the local community of the town, and responsible to this community. All later changes have been merely directed to the effort to enlarge the definition of a burgess, so as to draw more and more of the citizens into civic responsibility. It separated the administration of justice from the work of civic development. And while maintaining the principle that the former should be in the hands of men nominated by the Crown, gave the whole of the latter work to the town itself, subject only to the fundamental key principle of English public life, that administration can only

<sup>1</sup> Report Municipal Corporations Commissioner 1835, p. 49.

take place within the limits of law. If any attempt was made to trespass outside those limits, any aggrieved private citizen could challenge the most powerful corporation in the land, and obtain redress before the High Court of Justice.

And in constructing thus a popularly elected council, responsible to the whole body of citizens, meeting in public, and with publicly audited accounts, it constructed a body upon which there was no difficulty in laying responsibility for a whole series of new functions of communal action, growing with the growing desire for comfort and civilized life. So that now, as I shall describe, in the case of every citizen, the food he eats, the clothes he wears, the lighting, water supply and drainage of his houses, the habitable condition of these houses themselves, the condition of the streets outside them, the provision of all kinds of measures for physical development and mental culture, all legally come under the survey of, or are actively maintained by, the apparatus of municipal life controlled by his elected representatives on the Town Council. Nay, more. Such bodies having been formed representing the corporate desire of enterprising and progressive cities, they have themselves pushed forward in demanding powers of communal activity quite apart from duties laid upon them by general Acts of Parliament. And not a year has passed in which many towns have not promoted Private Bills or Provisional Orders (whose meaning and working I will describe later) authorizing them to some fresh, new municipal enterprises ; here, to start electric lighting ; there, to control a milk supply ; there, again, to acquire land for the town development, or to make arrangements for cheap sale of the necessities of life. The extraordinary vigour and life which came into the government of the English cities when once that government was made clean and incorruptible, and exposed always to the sunlight of publicity, is perhaps the most remarkable example of the progress of civilization in England for the past hundred years.

I can but hastily glance over the main features of this change. The first was the development of the combat in favour of public health, aggravated always by epidemics of cholera, and the hideous revelations of the conditions of the city slum. The 'model Acts' of 1845 contain model clauses which local authorities might adopt. The Public Health Act of 1848 was as much driven through Parliament by the cholera epidemic which preceded it, as the abolition of the Corn Laws was driven through Parliament by the Irish famine. The Town Councils became the local sanitary authorities. In the neglected city areas outside the towns, local Boards of Health were established. And a central authority was formed to 'ginger up' the standard of public health, which was ultimately to be merged with the Poor Law Commissioners into the Local Government Board. Progress was still slow and chaotic, and measures for the betterment of the health of the people were left for administration among a mass of local authorities. Finally, in the great Public Health Act of 1875, with its 343 sections and five schedules, the whole code of English sanitary law was established in a form substantially unaltered until this day.

During all this time also, the Central Authority was gaining power over the municipalities, less by the mere brutal issue of commands that must be obeyed, than by the granting of monetary bribes on conditions which it could insist upon, and in violation of which it could withdraw. These grants-in-aid were given for a variety of purposes, changing from time to time. They were given on the plea that these purposes were national rather than local. But the actual reason for their bestowal was, in the main, the persistent demand of the owners of land to be relieved from the increasing burden of these public imposts, and to shift some of it from the rates, which fell heavily on land and real property only, to the taxes to which all other forms of wealth contribute. Thus, 'grants-in-aid' came to be made, continually increasing, for the education of the poor, although these not directly to the municipalities,



until in the Education Act of 1902 these municipalities were entrusted with the work. Grants were made for the expense of the police, for a portion of the salaries of the medical officers of health, for the keeping up of the main roads, for the maintenance of pauper lunatics, and for like purposes. And even to-day the proportion of such grants to local expenditure, and even the nature of the subject of expenditure, is a matter of continual controversy not in the least degree settled. The owners of land and houses continually agitate for larger grants, or for the taking over of whole enterprises by the Central Government in order that they may be relieved of the payment of high rates. The rest of the community oppose changes which would cause them to pay more money for the advantage of the landowner.

The great reforming Parliament thus established order and a democratic system in two of the three units of English local government; the incorporated cities on the one hand, the parishes in so far as they were used for Poor Law administration, joined in Unions, on the other. They left the county or shire severely alone, under the rule of the nominated Justices of the Peace. They left the parish as an entity apart from its representation in the Poor Law Union to dwindle and disappear. Their successors allowed to grow up an enormous number of (in popular jargon) *ad hoc* authorities, created for specific purposes—Local Boards, School Boards, Highway Authorities and the like. In the early eighties, an intelligent reformer could still describe British local government as 'a chaos of areas, a chaos of franchises, a chaos of authorities, and a chaos of rates.' This confusion was straightened out by the Local Government Act of 1888, with its Supplement creating the County Council of London; and by the Parish Councils Act of 1894. Briefly, these two measures applied to the regions outside the towns the same system of popular local government which, within these towns, had worked so well. Elected County Councils replaced the old nominated rule of Quarter Sessions in the counties. The Sanitary Authorities and Local



Boards in the town regions, which had not yet become cities, were formed into Urban District Councils, with practically the same machinery of government as the city itself. In rural areas these were made Rural District Councils, which were, in fact, the Guardians operating under another name. And a belated and, as it has proved, not very successful attempt was made to revive the tiniest unit of Christian society in an effort to re-create the life of the village through the Parish Council and the Parish Meeting.

These organizations remain practically unchanged to-day. The history of the subsequent thirty years is merely that of the heaping of fresh functions upon them ; the work of primary and secondary education, the relief of the unemployed outside the Poor Law, the provision of houses for the working classes, the continuous enlargement of their duty towards the preservation of the health of the community. It is the practical operation, day by day, of bodies with such a strange and chequered past history which I shall now attempt to describe.

## CHAPTER V

### HOW THE CITY IS GOVERNED

#### (a) THE POWER OF THE COUNCIL

**T**HE Town Council, under the same essential form of administration, governs city populations enormously varying in numbers and in area, and with very different powers legally exercised and energies with which these powers are used. A tiny borough, little more than a village, but with an ancient and sometimes splendid history, will exhibit its Mayor and Corporation, its apparatus of decoration and display, its ancient charters and privileges, with as much courage and pride as one of those huge aggregates of people which contain within their areas a tenth or a twentieth of the inhabitants of England.

The essential form is this: First, that the Council is representative of the burgesses of the borough; and is assumed to carry out the wish of the burgesses in the activities it exhibits, or the powers it demands, for the improvement of the common life of that borough. Secondly, that its function is to give decisions, and decisions as far as possible after open discussion; first perhaps in committees, but on all important issues in the Council itself. And in such discussions the inhabitants of the borough shall be freely admitted to hear the arguments for and against discussed, and the local newspapers be freely allowed to report the same. Generally it is established that its work shall be done in the light of publicity, so that nothing shall be done in hole and corner fashion by a Council; which is

assumed, in its daily work, to be the servant of the public, and not its master. And thirdly, the work of the elected Councillors themselves shall be purely that of decision upon administration, and the maintenance of efficiency; but that the actual work of carrying out these decisions in detail shall be left to a municipal service of paid employees, controlled by some permanent executive officers, who take no part in actual municipal politics, but who carry out loyally the decisions of the Council whatever its particular complexion may be at the moment.

Beyond this, two fundamental facts remain which together distinguish the civic life of Britain from that of every other country except those which have inherited or adopted the British tradition. The one is the independence of local government, in the main current of its ordinary duties, of any central authority. In France, for example, the Mayor (*Maire*), or chief ruler of even the tiniest village or town in the remotest corner, is appointed by the Central Government in Paris, and is responsible to that Government for the way in which he carries out his duties. In Germany, before the war, the paid *Burgomeister*, who largely maintained the activity of the town, was responsible to the State Government for the efficiency of that town; and efficient *Burgomeisters* were promoted from administering small communities to ruling over great cities. There was thus formed a trained, expert, skilled *Burgomeister* service, with specialized knowledge of all municipal problems. In England the system is defiantly different. The local manufacturer, the local shop-keeper, now, with Labour seizing power, often the local artisan and unskilled labourer is elected, for a year, Mayor of a great town. The Central Authority, the Ministry of Health (late the Local Government Board), has no voice at all in his selection, and can neither approve nor veto his appointment. The Mayor, Aldermen, and Town Councillors, form a local Corporation, which, so long as it keeps within the law, can defy all interference from

the Central Authority; and which can even fail to carry out many of the functions imposed by law upon it without the Central Authority having, as a matter of fact, any practicable means of redress. That Central Authority has no power of appointing representatives on the Corporation. It cannot interfere with the officials appointed by that Corporation except in so far as the salaries of some of them are in part paid from the central funds of the State raised from the taxpayer. It cannot prevent the rates levied on the burgesses rising to any extravagant sum, so long as these burgesses maintain in power by their votes the men who are levying these extortions.

And on the other hand, the Central Authority cannot in practice prevent the whole duties laid by the Government upon every municipality in relation to public health, housing of the poor, and other essentials being scamped or neglected by any town made up of a body of burgesses determined only that, whatever happens, they will keep the rates down. It can, indeed, hold inquiries in face of definite charges of corruption, and with infinite difficulty can produce a case in which the Crown intervenes to prosecute, and the guilty are punished. It has taken power in theory in most modern Acts of Parliament, if a town neglects its legal duty, either to transfer the work to another authority, or to step in and do the work itself, charging the town with the cost. Or it may adopt a lengthy, expensive, and clumsy legal procedure by which it compels the High Court of Justice to 'mandamus' the Council; that is, to issue a writ commanding the Council, under threat of legal penalty, to administer the law as it was intended to be administered. But in practice, except in extraordinarily provocative cases, generally of small and unimportant Councils, and then rather as a threat of reprisals than an actual use of them, these interventions rarely occur. The municipalities are allowed to carry out the Acts which they administer with the widest possible variations. It may be

generally affirmed that, so long as each one of them retains the support of its citizens, it is allowed to make its own heaven or its own hell.

On the other hand, though thus given elasticity in the carrying out of the law, each City Council is most rigorously bound not to go one jot or tittle beyond the limits which the law allows. It has no power at all itself of modifying law, except in so far as Parliament has itself given it that power by specific statement in an Act itself. Nor can this power be given it by the Central Authority, except in so far as Parliament has entrusted that Central Authority with such modifications. There are no subordinate legislatures in England; there is only the Central Parliament.

Most of the towns have indeed special laws under which their Corporations can act. But each of these special laws has not been made by the Corporations themselves, but has been passed by the Central Parliament in London. If a Council desires a modification of these old laws, or the making of new ones, it has to go to the Parliament in London. And that Parliament decides as it pleases, and not as the Corporation pleases. So that even if the Town Council was unanimous, and every man, woman, and child living in the borough in favour of the Bill which was to give it special powers, a Parliament in which that borough has only one member in seven hundred, and with no more voice on this Bill than a member living four hundred miles away from it, might sweep the whole thing away with the utmost good humour or contempt. And the borough would have no authority to which to appeal against this decision of Parliament; and no resource but to accept its defeat, or to make further attempts year after year to convince Parliament that it was right. Before such a decision of Parliament even the Central Government is powerless.

Nor has the Central Government any general power of absolving the Town Councils from the penalties of any illegal act, or of giving them power to do things



which are outside the powers given them in Parliament itself. There is no *droit administratif* in England. It is true that in a certain number of limited cases, a citizen who thinks himself injured by the act of a Council—as, for example, if a house he owns has been closed as unfit for human habitation—is given by an Act of Parliament the right to appeal against such a verdict to the Central Authority alone, and that if the Central Authority decides against him, its decision is final. But these cases are few, and have been very strongly criticized. They apply to matters of fact only, and not to matters of law; that is to say, of whether a law has been rightly carried out, and not to the question whether the Council has gone outside the rights and limits imposed by the law. And with all the brave words used in such Statutes, it is still exceedingly doubtful whether in actual practice Parliament can impose such finality, and so shut out an aggrieved citizen from the common court of justice. There are all kinds of ways by which clever lawyers can, in any special case, evade what was evidently the general intention of Parliament in making such a prohibition, and find an avenue by which their clients can, by some way or other, present their plea for justice before an impartial legal tribunal.

But apart from such special cases as these, the whole apparatus of administration of English municipal life lies vulnerable to the attack of any injured or offended citizen. He does not appeal to the Central Government against the Council, nor does he appeal to Parliament. He appeals to the High Court of Justice, which is equally indifferent to the desires of the one or the intentions of the other. If the appeal is on a point of law, the sole object of the High Court is to determine whether the Council, as a matter of fact, is carrying out the law as embodied in the actual words of a Statute passed by Parliament. It has no concern with the good intention or the bad intention of the Council. It has no concern with whether it thinks the law is good or bad. It has no concern

even with whether Parliament intended the words to mean what as a matter of fact they do mean. The famous enactment in the *Mikado* declared that all who attempted to encompass the death of the Heir-Apparent should be boiled in oil, or perish by 'something lingering and humorous.' It may be 'a fool of a law,' as the Lord Mayor of Titipu said; and he may comfort the victims of it by assuring them it will be changed next Session. Meanwhile, however, they are boiled in oil.

Laws which have been administered with a certain interpretation for years, and even decades, without any complaint, may thus suddenly be swept aside by the action of some individual who, from caprice or public spirit, challenges their validity in the High Court. The most famous instance was the notorious Cockerton Judgment, in which the expenditure on higher education which the School Boards had indulged in for many years was suddenly declared illegal, and they were prohibited from spending another farthing on it. In similar fashion, when the London County Council started running lines of omnibuses without a special permissive Act, on the ingenious plea that, as these were merely feeding the termini of their tramways, they therefore were, for all practical purposes tramways—and if tramways, why not say so?—the aggrieved proprietors of private omnibuses immediately hauled them into Court, and swept their contentions and conveyances away.

What, it may be asked, then, can the unfortunate Councils do; hedged as they appear to be between the limitations of Statutes whose meaning even their creators appear but imperfectly to comprehend? Their position, in practice, however, is not so hazardous as it appears in theory. Their chief official or Town Clerk is a skilled solicitor versed in the law. They therefore find little difficulty in carrying out the duties laid upon them so long as they do not attempt to stray into, perhaps more attractive, but certainly more hazardous enterprises.

The laws they thus administer are of three kinds. There is, first, the laws which are laid on all of them alike, concerning which they have no choice, and which in theory, although, as I have said, rarely in practice, ought to reveal on examination a uniform standard as between city and city. Such are, for example, most of the laws relating to public health, or the provision of a pure water supply, or an efficient drainage system. There are, secondly, Acts which are called Adoptive Acts; that is to say, the Town Council may adopt the Act or not as it pleases. Some of these are hedged round with precautions, such as that, if adopted, the special cost shall not exceed a certain rate in the pound; or that the decision shall only be come to after the approval of a publicly called town's meeting, or a 'plebiscite' of the whole electorate. Such is, for example, the Act permitting free libraries to be established, or the Act allowing the municipalities to feed the children who are hungry. In these, therefore, there is a quite natural and legal variation between town and town; although in these, which mostly offer to the citizens, as a result of adoption, something of advantage to the whole community, there is a tendency towards uniformity; due to the fact that 'the reformers' of each town are always agitating that it shall attain the same standard as its neighbours; and pronounce that town to be disgraced if it is less up-to-date in these matters than they. And the third are the special Acts passed by each city from time to time in conformity with the demands of that individual city. Such special Acts have been passed for centuries, and it was under the influence of these that many activities now legally permitted to all towns first became law in some particular town. Some of them, born of the particular characteristics of the town itself, dealing with ancient endowments or peculiar properties of the town by which it differs from others. But some, on the other hand, give to particular town or towns powers to do things which other towns,

without such Acts, do not possess ; as, for example, to run municipal electricity undertakings, or to supply municipal milk, or to embark on some special form of municipal trading. And here, therefore, the cities have widely different powers in accordance whether they have passed such Acts or no ; Manchester, for example, being able to carry out some enterprise which is illegal in Liverpool, because Liverpool has never asked for permission to do it, or has been denied.

There is no general controlling law in England deciding what a Town Council in general may or may not do under local Acts of Parliament. As Parnell once told an Irish audience that he could set no limits to the boundaries of a nation, so an advocate of municipal enterprise could tell his delighted supporters that no limits could be set to the advance of a municipality. Mr. Chamberlain, when Mayor of Birmingham, broke through all accepted tradition in the powers he advocated and obtained for civic enterprise in that city ; and set a standard which caused Birmingham to be hailed for many years as the Mecca of municipal activity. The limit of any similar civic enthusiasm to-day for embarking on enterprises which no city has hitherto thought of undertaking is merely set by the limits of its power of cajoling Parliament ; to give it special permission to embark on this work by a local Act of Parliament.

#### (b) THE COMPOSITION OF THE COUNCIL

Every year, at the beginning of November, elections such as I have described are held in all the boroughs of England to elect town councillors. These councillors are elected each for three years' service, and one third of them retire every year.<sup>1</sup>

<sup>1</sup> This does not apply to the London County Council, which is not indeed a Town Council at all, or to the Borough Councils of London. In these, the change is as complete as in a Parliamentary Election. So that at any one time, if the Electors so desire, the whole Council, except for the Aldermen, may be swept away, and a completely new one substituted for it.



There is thus the continuity of a Council which never dies. And even if the burgesses reject at the election every retiring councillor who wishes to continue in his position, more than two-thirds of the body still remain in office.

The number of councillors varies in accordance with the size of the town. They are elected by a system in which the town is divided into wards, and, as a rule, each ward returns three, six, or nine members. So that every year one, two, or three respectively may retire. The Council itself selects in addition a mayor and aldermen. The aldermen are one-third the number of the councillors. They can be chosen from members of the Council itself, or from any persons qualified to be councillors. They sit on the Council unchallenged for six years. If a councillor is elected alderman, he vacates his seat, and an election is at once held in his ward to elect a councillor in his place.

On November 9th, eight days after the election, the Mayor is chosen by councillors and aldermen together. He may be a member of the Council, or a distinguished person outside. If a councillor, he does not vacate the seat. He is elected for one year only, and he may be re-elected for any number of times afterwards, but in each case for one year only. The aldermen who go out of office on November 9th cannot vote for the election of the new aldermen. But the aldermen who remain in office may; an arrangement which has caused much criticism from would-be reformers, especially in London. For it is evident that if the reformers have carried most of the seats in an election against an 'old gang,' that 'old gang' may preserve their majority by using the votes of their old aldermen to help to outvote the new councillors in electing new aldermen. There are other reformers who say that the whole system of aldermen is archaic and reactionary, and that every member of the Council should be as much directly responsible to the electors in the town as is every



Member of the House of Commons. There are others still more vigorous who wish to adopt the full Parliamentary system, and let the whole Council be elected every three years, and consist entirely of elected members.

The present system, indeed, differs not only from that of Parliament, but from municipal institutions in democratic countries elsewhere. In France, the *Maire*, with functions very different from an English Mayor, is appointed by a Government which is responsible to the elected Chambers equivalent to our Parliament. In America, in a great city like New York, the Mayor and the chief officials are chosen by a plebiscite<sup>1</sup> in an election which has all the interest and much of the importance of a State, Government, or Presidential Election. In England, it is apparent that the cautious ways of ancient cities reflect, in their elaborate opposition to sudden change, the fear of any violent upsetting of accepted tradition. The Town Council spends the money of the burgesses. It is compelled in such spending to work within the law. But even within that law it can vary the amount it spends almost indefinitely, in accordance with the efficiency of its work on the one hand, or the policy it adopts on the other. I shall indeed show later that owing to an arrangement for raising rates cheaply, in most of the great cities the majority of the electors do not even know that they are paying rates at all, and therefore vote somewhat recklessly. But the system itself is evidently an inheritance from the time when each burgess looked carefully at his gold pieces, and decided only with reluctance that some of these should be appropriated for the preservation of his property, or the protection of his life.

<sup>1</sup> A plebiscite merely means a direct election by the voters, of a particular person for a particular office. It is the system adopted in America, for example, for the election of its President; and was the method by which, in France, the Empire claimed to rest on popular authority owing to the fact that at intervals it put the question to the whole population whether they wished the Empire to continue or no.

And as the constitution of the Council has thus remained, so also has remained the undying tradition embodied in English literature, and the subject of endless anecdotes and humours. The Mayor is a portly person, decked in gorgeous apparel, with a queer hat and a gold chain of office, and with stoutish, dignified flunkeys quaintly dressed, who accompany him in his goings out and his comings in. The aldermen are also stout, elderly gentlemen, clad in robes, of benignant and somnolent disposition; chiefly conspicuous at City banquets, in which they consume enormous quantities of oysters and turtle soup. And the councillors themselves are men of middle age, with property and a stake in the fortunes of the town, who have permanently identified their fortunes with the town, and stand to gain by that town's prosperity. Such a vision is far, indeed, from the reality of the system as it may work to-day in some of the municipalities in which 'Labour' has gained control. Here the Mayor may be a local carpenter or bricklayer. The aldermen may be young, quick-witted, eager men, clean-shaven, or with small moustaches, possessing no property at all. The councillors may be men who at any moment will pack up and leave this particular district. And all the historical paraphernalia of gold mace and gold chain and beables and flunkeys may be ruthlessly swept aside; and the very idea of turtle soup or oysters at city banquets accepted as one of the seven deadly municipal sins. Yet, with this outward dinginess of life, there may be no less public spirit and zeal for the public good. And the actual work laid on it, and the methods of its carrying out are exactly the same whether a borough maintains the ancient formalities and ceremonies, or whether it has acquiesced in the colourless standard of the twentieth century.

And in many of the little old towns, and some of the big ones, the old tradition survives. Within the Council the Mayor is but the chairman of the Council's meetings, and has not even the authority of a Prime

Minister in Parliament. He does not settle policy, which is done by the majority on the Council. And he does not carry out that policy, which is done by the Town Clerk and the officials under him. His function is to preserve order at the Council and, on the legal advice of the Town Clerk, to see that the Council carries out its own rules and proceedings on the one hand, and keeps within its legal limitations on the other. The new type of Mayor, recognizing himself as being merely the chairman of a Council, might limit himself to this duty. But it is certain that at present most of the cities are not prepared for so drastic a break with the ancient ideal. The Mayor is Chairman of the Borough Bench of Magistrates during his year of office. He is also the first citizen, and representative of the town in all its relations with the outside world. He welcomes in suitable speeches distinguished visitors to the city; or conferences of great organizations—Friendly Societies or Trades Unions or Church Congresses, or British Associations for the advancement of science, or even gatherings of the organized political Parties of the country. And he welcomes these regardless of their party or religion, and regardless of his own party or religion; knowing that his duty is to have no official party or religion during his year of office; and that these conferences bring honour and revenue to the town in which they are held. And he will therefore confine himself to such remarks as that honest men are to be found in all parties, or that all truly religious men really believe the same thing at bottom. Sometimes he will entertain Royalty itself, attracting the highest persons in the land to his town, to open a dockyard, to visit the works and industries, or to patronize a hospital. In that case he will have been reckoned as having done the town great service. And he will almost certainly receive a knighthood as a mark of Royalty's approval.

And outside these more conspicuous opportunities of eloquence and distinction, he is called to almost

daily service in the various interests of the community. He enters into conferences with other mayors on subjects of interest to neighbouring cities; or he is called by the Government to London to consider with that Government such problems as the housing of the poor, or measures dealing with unemployment, affecting all towns alike. When a local Bill promoted by his town is before Parliament, he often has to spend much time in the Metropolis negotiating with the Government officials, or persuading the Members of Parliament that the Bill is a good one or a bad one, as the case may be.

Even in lesser duties he can never call his time his own. He is a kind of 'good uncle,' or fairy godmother to all the citizens. He sits in the Mayor's Parlour, his own private room in the municipal buildings, and people come to him with any kind of request or grievance or demand for advice. Every charity or athletic society or school entertainment requests his presence and his subscription. In some towns the Mayor is allowed from the municipal revenues a certain sum for municipal entertainment. But in the overwhelming majority of cases the person who has accepted the office of Mayor in a city, and carried out his duties in conformity with the wishes of the high-spirited citizens, is left many thousands of pounds poorer in pocket. But a few years ago the observant foreigner, examining English municipal life, could pass the cheerful or ironical verdict that 'a rich peer is an ideal Mayor.'

### (c) THE WORKING OF THE COUNCIL

The Town Council carries out its work by means of committees. There is nothing mysterious about work through committees, which is a very common English way of transacting business. In practice, it means that the Council divides up the various things it has to do into a number of separate subjects, and appoints a limited number of its own members to be a committee



to deal with each subject. These ladies and gentlemen meet at intervals, sitting round a table in a little committee room. They appoint a chairman to preside over their discussion. They have a clerk or official to take notes of their decisions, which they call minutes. They receive reports from the Town Clerk or the permanent staff of the Council which is specially concerned with the work which they are supervising. They come to a decision by means of discussion; that is, by freely talking over any uncertain point, and each giving his own views, and trying to convert others to these views by argument and appeal. If they cannot all agree, they will vote on the matter 'yes' or 'no.' And every member has one vote and no more, except the chairman, who has what is called a casting vote; that is, an extra deciding vote when the votes are equal. The officials who have to carry out the decision have no voice at all in the making of that decision, and can only give their opinion on the subject if called to do so by the committee.

After the committee has decided on any point, its decisions come before the Council itself at the general meeting, with the Mayor or Deputy Mayor presiding. And if, as is usual, the Council accepts the verdict of the committee, it is not even discussed in the meeting of the whole Council at all, but is formally approved, and becomes the legal decision of the Council. Any member of the Council, however, whether he was on the committee or no, if he objects to any decision of the committee, may recommend the decision to be rejected or amended, or referred back for further discussion. And if the Council agrees, it is done.

Every Town Council has to appoint certain 'Statutory' Committees, by which is meant committees which Acts of Parliament have decided must be appointed by the Town Council to carry on certain work. Such, for example, is the Watch Committee, which deals with the police, which by law shall not



exceed in numbers more than one-third of the Council. Or, again, the Education Committee, upon which other members are co-opted, that is, appointed from outside the Council. The Council members are in a majority on this committee, but in accordance with a scheme made by the Board of Education, other persons must be appointed either by the Board of Education, or by some other body, or by the Council itself.

But the great majority of committees are not 'statutory' at all. They are appointed to assist in carrying out some particular work of the Council as that work arises, through the adoption of some old law or the passing of some new one. And, generally, there will be many more committees in a large Council than in a small one, where much of the work may be done by the little Council itself. And there will be more committees in an active and progressive Council keen on municipal energy and municipal trading, than in a Council which is lethargic and indifferent to these matters.

There is no limit to the number of these committees, and in many big towns these committees themselves break up into sub-committees, each to deal with separate parts of a big subject. The titles of the committees themselves give an idea of the work of a Town Council. There will probably be a General Purposes Committee, dealing with the procedure of the Council, and such subjects as the selection of persons from the Council for the various other committees. There will be the Statutory Watch Committee, and the Education Committee; a Sanitary Committee to deal with the public health, a Highway and Sewerage Committee to deal with the roads, and the drains which run beneath them; a Water Committee to deal with the water supply; a Gas and Lighting Committee to deal with the lighting of the town; and if the town owns its markets or lands and property, or libraries and museums, committees dealing with each of these subjects. If

the town has established tramways, or supplies gas or electric light, or possesses parks and public playgrounds or municipal cemeteries, there will be committees to deal with these. Besides these committees of their own appointment, dealing with their own affairs, many towns also appoint representatives on joint committees with other bodies; dealing with such subjects as asylums, or general schemes of drainage, or the prevention of the pollution of rivers.

The Statutory Watch Committee has control of the police, and it alone is independent, in its decision, of the Council in respect to the duties of the police control specifically laid upon it by Parliament. Some of the other committees, such as, for example, the Public Libraries Committee, have the power under law to co-opt burgesses who are not members of the Council. A Parliamentary Committee may watch over the interests of the town as affected by general and local laws passed through Parliament, and a Vigilance Committee may brood over the morals of the inhabitants within its borders.

#### (d) THE FUNCTION OF THE COUNCIL

##### I. THE PROTECTION OF LIFE AND PROPERTY

What, roughly, does all this mean? What does a Town Council do? Its first duty, and one inherited from immemorial time, is to guard the safety of its citizens, and to protect their property from marauders and malefactors. It does this by its system of police. The police are officials, recruited and paid for by the town, and entirely under the control of the Watch Committee itself. The opinion widely held that the police are under control of the Government, and can be moved about the country by orders of the Government in times of emergency, is an entire delusion. The Government contributes to the cost of the police in every town, a grant-in-aid, as it is called, from the central revenue; and in theory at least could cut off that grant if the Town Council refused in emergency

to assist with its police in the maintenance of law and order outside its boundaries. But except for this fact, the local authority has absolute control, and can do what it pleases with its own police, within the limits of the law. The only exception to this general rule is the Metropolitan Police Force, which is under the control of the central Government at Scotland Yard, and can be used by the Government for any of its purposes in any part of the country.<sup>1</sup>

The head of the borough police, the chief constable as he is called, is an officer appointed by the Council. But he is paid by the Watch Committee, and can be dismissed either by the Council or by the magistrates. The magistrates have, indeed, a kind of indefinite authority over the town police as being responsible for the keeping of the peace in the town. In doubtful cases a joint committee will probably be appointed by the Watch Committee and the magistrates; and this committee will decide what policy will be pursued from day to day. Apart from this legal responsibility, the Watch Committee raises, equips, clothes, houses, and arranges for the pay of the police force. It generally decides or has a veto on police prosecutions, and in some towns the use of this veto has given rise to the belief that it has been unduly tender to certain interests, such as the liquor interest. As I have said, a considerable proportion of the expenses of the local police force is paid by the State, on the condition that these shall be annually inspected by the Home Office. And this grant may be reduced, or altogether refused, if the result of the inspection is unfavourable. In practice, however, the Central Government will always endeavour to avoid open warfare with a great municipality by refusing the grant. It knows that such a municipality can make things difficult for Ministers in the House of Commons, and that even municipalities who hate each other will always readily combine for mutual protection

<sup>1</sup> As I shall explain later, the county police are under a joint control, different to that of a borough.

against, or mutual attack upon what they term 'the bureaucracy at Whitehall.' Indeed, 'Whitehall,' among the great cities, has come to have the same character for ignorance, fussiness, interference, and incompetence as 'Downing Street' has among the great Colonies and self-governing Dominions. The latter represents the attempted control of the Colonial Office; the former that of the Board of Education, the Home Office, and the Ministry of Health (late Local Government Board). The charge, to those who know the inner work of these great Departments, is of course absurd. But it is not unnatural in a system that inevitably leads to friction. The heroic attempt is made to combine the fullest possible freedom and local activity in the cities with the duty laid on the Central Authority to compel them to carry out certain functions in a manner satisfactory to the Government; and a responsibility for interfering if these are variable or inadequate.

## 2. PREVENTION OF DISEASE

If the first function of the Council is thus to protect the honest burgess from human malefactors injurious to his life and property, the second is to protect him from enemies which are not human, but which, if not continually fought, prove a far more dangerous menace to his welfare than any thief or murderer. And all this apparatus of attack has grown up during the last few generations, since the time when the bulk of diseases were regarded as the 'Act of God' laid on humanity as a trial of its patience, or a punishment for its sins. In the old days men jogged along happily through life in the little walled towns of England. The houses were built round and leant over the churchyards. The water supply was drawn from wells into which those churchyards drained. Each house was responsible for the disposal of its own refuse and sewage. Each citizen purchased what food he pleased, in any condition of putrefaction, with no one to say to buyer or vendor 'aye' or 'no.'



The great campaign against the disease which was the permanent accompaniment of such conditions, associated with the series of Public Health Acts, has taken two forms, a positive and negative. In the positive form it requires the provision of certain microbe-fighting services in every city, with the Central Authority enforcing a minimum standard of such provisions upon all municipalities. Every municipality thus has to provide, available for all citizens within its area, and at a reasonable cost, showing equal treatment of one house and another, an adequate and pure water supply ; for the expense of which it levies a water rate upon all houses supplied within its boundaries. It has also to supply a sewage system, or to satisfy the Central Authority that whatever system or lack of system exists is not detrimental to the general health of the town. It has also to arrange for the clearing of refuse in regular collection by municipal dustmen, and for the satisfactory disposal of such refuse ; for the clearing of streets by municipal scavengers, so that disease shall not be bred in the public highways. It has to provide such accommodation for the disposal of the dead in municipal or other cemeteries as will ensure that these shall cease to be a danger to the living.

On the other hand, its negative work is the harrying and prosecution of all those who, by reason of neglect or misfortune, are aiding the diseases which are the common enemy of mankind. These, so far as public health is concerned, are mostly defined as ' nuisances,' and the local authority under the Public Health Act and other Acts is given wide powers to make what are called ' by-laws ' declaring certain things or certain conditions ' nuisances.' It prosecutes people, and subjects them to penalties, for maintaining those things, or establishing those conditions. Thus, the possession of an insanitary dustbin is a ' nuisance ; ' or a house where the drains are wrong ; or a house having more people living in it than the standard of over-crowding laid down by the local authority ; or a house in such a



state of decay as to be unfit for human habitation. And even where the offence is not technically a 'nuisance' the same principle is applied. A man is not prosecuted for his own good to raise him to some standard of decent life approved by the town as a whole. He is not compelled to wash himself or to dress decently so long as his nakedness does not offend the propriety of his neighbours ; or to keep his house tidy or clean ; or to conform to even a limited standard of civilized habits. But if his degradation is such that his offence causes inconvenience or infection to his neighbours, he will be prosecuted for being a nuisance, and will have to reform his ways. The Englishman's house is only his castle in so far as it neither excites discomfort nor breeds disease in the 'castles' of adjacent Englishmen.

And the same principle applies to larger action. The Town Council is responsible for the food sold within its borders—that it is of the quality it professes to be ; that the quantity is what it professes to be ; that it is not adulterated, and that it is fit for human consumption. Many years ago Robert Lowe, in face of a deputation demanding these rules who gave some horrifying examples, after expressing complete sympathy with the new proposed legislation, remarked that nevertheless he could not but think that the man who turned diseased liver into raspberry jam must, in some sense, be regarded as a benefactor to the human race. The modern Town Council, however, passes no such cheerful verdict upon him. It inspects his goods, it destroys whatever it finds unsound, it may visit him with heavy penalty for any praiseworthy effort he may essay to secure that benediction.

And in the town, infectious disease is itself treated as something of a nuisance. We have not yet, indeed, reached the stage described by the author of 'Erewhon' in which persons guilty of sickness are subjected to severe punishment. But in the case of any illness in which infection may be directly or indirectly conveyed to others, it is the duty of the Town Council, through

the Medical Officer of Health, to descend upon the victim and the cottage in which he resides, to spirit away the patient to some isolated fever hospital, and to deal drastically in the matter of cleaning and disinfecting; even, if necessary, in the expulsion of its inhabitants from the house where the disease has occurred. The cost of this somewhat expensive process is borne by the Council itself, the community regarding it as a kind of insurance by which each citizen contributes to the stamping out of a disease which might otherwise enter his own home.

### 3. THE PROVISION OF 'LUXURIES'

In the third subject of Town Council activity may be included the provision of those things which belong to the luxuries rather than the necessities of city life. The protection of life and property is the first requisite of the continuance of a civilization; and so also, as dismal experience has proved by plague and fever, protection against the microbe and the bacillus which flourish when men herd together in closely packed insanitary cities. But this third class being less doubtfully necessary to all, has been left to the choice of each town, and not imposed upon it. And many towns have seen no reason to compel all to pay for benefits which indeed are open to all, but which many, or even a majority, may not in the least desire. To such a class belongs the provision of parks and playgrounds, of baths and wash-houses, of free libraries, of halls suitable for public functions attached to the municipal buildings, or of various forms of technical and higher education outside the minimum standard of education required by the Central Authority.

Such 'luxuries' as these are provided for two reasons. Some towns spend money on these objects with the hope of direct financial reward. It is money spent with the expectation of monetary return. This applies, for example, to watering-places and to the sea-side resorts which so plentifully surround the coast of England. Here the actual industry of the

town is the attraction and amusement of visitors. Therefore the citizens, who are mainly hotel keepers or lodging-house proprietors, or dependent on the prosperity of hotels and lodging-houses, are very content that a levy should be imposed on them all for adding to the attraction of the town, in the hope that this additional expenditure will attract visitors and the money of visitors, in competition for these with other cities similar to their own. And therefore, in such communities, large sums are spent by the Councils in the making and upkeep of promenades, in shrubs and trees and flowers, in municipal parks and municipal piers, and even in halls for music and entertainment, and the employment of a municipal band. This is 'business,' not pleasure, accepted as a necessity rather than a recreation.

The same applies to the Councils which represent towns or districts endeavouring to attract a high-class population, in the neighbourhood of some great centre of rich and poor alike. In these districts, for example, by the reserving of a considerable proportion of the land which can be used for games for the children and enjoyment for the old, persons of substantial income can be attracted to this neighbourhood rather than to any other in which no such provision is made. And here also foresight and cleverness receives its reward, and wisdom is justified of her children.

Controversy is only keen and bitter in connexion with these 'luxuries' when efforts are made to impose them, not as a means of obtaining a future interest on the capital spent, but merely with the idea of making all pay in order to place within the reach of all such enjoyments as most of them could not otherwise obtain. In many cases there are elaborate safeguards in the Acts themselves both as to means of ascertaining the communal desire by a town's meeting, or by voting for these amenities, or by very strictly limiting the amount which can be spent upon them. But in practice the first of these, at least, counts for but little. For a town's meeting may be 'packed,' or be but sparsely attended,

and the majority of electors may have no knowledge that they pay any rates at all. And in any case in most of the industrial cities, as the poor enormously outnumber the rich, and these things provide benefits which the poor enjoy and for which the rich pay, it is obvious that the many will always outvote the few on these matters. It is easy to appreciate the argument of both. 'I have a garden which I pay for,' says the one, 'and I never wish to walk in a park. I have a collection of books, and I should never use the greasy, much-thumbed, insanitary volumes of a municipal library. I have saved enough to pay for a bathroom for my house, and with that I am very content. Why should I be mulcted against my will of a substantial proportion of my income in order to provide bathrooms and libraries and playgrounds for my neighbours, who have preferred to spend in drink or extravagance the money which I have saved thus to provide simple comfort for myself and my children?' And the answer of the other side is something as follows:—'You can provide yards where all of us combined can furnish acres of garden and playing-ground. And the combined acres are of far more advantage in general pleasure than the system of each hibernating in his little back yard. You, at best, can collect your little library of five or seven hundred volumes. By combining together we can create a city library of fifty or seventy thousand containing many expensive books which you can never afford to purchase, upon which each can draw freely as he needs. You can provide your little limited bathroom in which you can get clean and splash about under such conditions as you please. But by all combining together we can offer you accommodation in a kind of joining together of private baths, in which the result of uniting hundreds of such private baths is different, not only in degree but in kind, from the use of each bath separately; in which the whole adult and child population can obtain cleanliness, and learn to swim, and enjoy all the accessories of such pleasant and desirable ingredients of town life in the midst of a



grimy, and, perhaps, squalid city, which they could never obtain if restricted to what development was possible in each little limited home.'

In all these civic 'luxury' expenses, little controversy and certainly no bitter controversy would arise if the old Greek ideal of civic development could still be maintained among the sprawling town populations of twentieth century England. In a community limited in numbers, which could comfortably meet together in one hall for discussion of civic improvements, homogeneous both in size of house and character of inmates, so that in the case of any projected improvement each would pay the same communal contribution, and each would receive the same communal advantage, there would be little heat or anger concerning almost unlimited development of such communal enterprise. Under such conditions you might even conceive of free communal kitchens, free communal tramways, free communal arrangements for maintenance as well as for education of children, which, after all, are merely a logical development of free communal roads and free communal children's teaching, and free communal parks and swimming baths and libraries. Those who, in such a community, desired to stand out of such common enterprise, might be politely or roughly invited to go elsewhere to some region where the inhabitants were unable to appreciate the advantage to all by thus pooling the resources of each.

The whole difficulty arises, however, through the absence of such small and homogeneous communities. Cities are large and ignorant aggregations of the rich, of persons of moderate incomes, and of the poor. The communal activities which suit one have no attraction for the other. Many of the wealthier owners of property, and therefore forced contributors to these special rates, live away from the city itself; and so far as they are concerned, money spent on parks or baths or libraries might as well be spent in the Antipodes. And, therefore, the subject of this amenity expenditure is one of continual friction. The pressure of the friends of the poor



in Parliament to give these poor something free in the apparatus of enjoyment, or improvement in body or mind, results in the passing of a series of these Adoptive Acts. The agitation of the friends of the poor in municipal elections results in the Councils elected being continually pledged to the enforcement of these Adoptive Acts, in which the majority believe they are getting something for nothing. The result is regarded with increasing wrath and disgust by the owners or occupiers of house property, who have no particular desire for these enjoyments and improvements, and who see themselves year by year mulcted of increasing sums which they believe they could better spend on enjoyments and improvements for themselves and their families.

Nevertheless, these communal enterprises continue, inspired not only by the desire of each individual citizen to obtain a personal advantage, but by something of general civic pride. Such pride has survived through all the centuries, from the days when each city endeavoured to attract the best artists, the most learned scholars, and the most distinguished men of renown, within its borders. It is a long tradition, extending beyond the Middle Ages, to the time when the Greek historian could boast of Athens that it concealed no secrets and raised no barriers against the visitors from all the world; and the Hebrew psalmist could declare of his little mountain village, that Mount Zion was 'the joy of the whole earth.'

#### 4. MUNICIPAL TRADING

The fourth class of municipal activity is that varied collection of enterprises generally classed under the title of municipal trading. In the luxury provisions which I have just described, no attempt is made to get a profit, or even to make the thing pay.

The libraries are free to all citizens and their wives and children. There is no charge for admission to the public parks or promenades. And even if some small and nominal fee is exacted for the use of baths and

wash-houses, it is never suggested that out of these fees they will become self-supporting institutions. But municipal trading has been developed very largely in the hope of making a profit in a business transaction, and using that profit to lighten the burden of the rates. Every town, owing to the mere fact of its development as a town, possesses valuable monopolies which it can either give to private persons, or sell or lease to private persons, or develop itself, in the hope of obtaining the profit which would otherwise go to private persons. These monopolies are called in America 'franchises.' As, in the growing American cities, they were of enormous value, they became an extraordinarily fruitful source of corruption. For the granting of a franchise to one particular company to the exclusion of all other companies, meant immediately the putting of perhaps thousands of pounds into the pockets of such a favoured body, and therefore each company competing for this grant was prepared to spend tens of thousands of pounds, either in bribes to the individual councillors, or in contribution to the funds of the party in power in the Council, in order to obtain the 'franchise' which would repay it tenfold for such expenditure.

A typical example of such a 'franchise' or monopoly is the tramway system of a town, far more valuable before the motor bus started a successful competition against it. But in the older days, practically every one had to travel within the city by trams, or not at all. And as it was impossible to have more than one double track of tramway down the main streets of the town, it was impossible to have competition in a tramway system. And therefore the town had either to make and maintain its own tramway system, or to give or sell the right of tearing up its streets, and controlling its locomotion, to one particular company operating for private gain. The majority of the more enterprising of the British cities chose the first of these alternatives, and in most of the great towns of England the Council is responsible to the citizens for the general manage-

ment and efficient working of the tramways which occupy its streets. In all such enterprises there is a continual contest between three parties. On the one hand there are those who wish that such an enterprise should be worked exactly as if it were a private body seeking gain, and who are only desirous, therefore, that systems should show large net profits which will go to the relief of the rates, and reveal the business-like success of the Council. There is a second party who is content that so long as the thing is self-supporting, and no loss is incurred, all the possible profit should go to cheapening and improving the service, and to the welfare of the municipal employees. They would provide locomotion, as they provide recreation, at the lowest possible cost. And there is a third party which believes in individual enterprise, and regards with the utmost disgust all attempts at municipal trading. It is continually trying to prove that such communal activity must be a failure, and in every way striving to damp it down, and prevent its extension. It is fearful that communal enterprise will be extended into all forms of human activity, thus shutting out the opportunity of private effort.

Municipal enterprise is continually endeavouring to break down the barriers erected against its advance. By Private Bills or Provisional Orders or the passage of Acts giving fresh powers to all the cities it strives to embark upon new activities. Those who dislike these activities, and who think that all Town Councils must be inert, or corrupt, or probably both, or are troubled by the spectre of enormous municipal debt borrowed to start such enterprises, or believe that these are really run at the expense of the ratepayers, or are interested in the alternative proposals of private companies, are continually opposing these efforts, and crying out that this is little better than socialism, and must inevitably lead to ruin.

The controversy is unceasing from decade to decade. Abstract principle on the one side or the other is supplemented by a perennial battle of statistics, and the

flinging of figures of profit and loss which each interprets as he pleases. It is certainly not my purpose in this book, which is descriptive and not controversial, to attempt to justify one side or the other. Those who delight in argument will find a bulky literature for their examination. But so far as the facts are concerned it may be roughly laid down that there has been a general tendency to give the cities the right to work their own monopolies, and a great reluctance to permit them to embark on trading which has no monopoly character. Thus, practically every city has been allowed to establish its own tramway service if it desires it, because, as I have said, no more than one system is possible down the main streets of the town. But few, if any, cities have been allowed to embark upon a motor bus or char-à-banc service, because in theory a hundred different competitors may run motor buses or char-à-bancs through the main streets of the town. And this prohibition remains despite the fact that these companies help to tear to pieces these main streets, which have to be repaired mainly at the expense of the ratepayers, and to whose repair the companies contribute nothing at all. In the same way the towns are permitted to run gas companies and electric lighting companies, because as the pipes and communications of such supplies have to pass under the public street, it is quite obvious that competition in which, say, five or six private firms endeavoured to run their lines down one tiny road would be quite intolerable. But such municipal supply is not without its dangers, especially in face of new invention, as was shown when electric light was developing, while the towns had sunk large sums of money in providing gas; the result being that, for over a decade the majority of them refused to allow the introduction of this new competitor to their carefully established 'vested interest.'

And some of the towns run markets because markets, when once established, are also something of a monopoly. And they provide cheap electric power for manufacturers because, without this power, the manu-



facturers will not settle in the town where such power is unobtainable, but go elsewhere. And they will run business enterprises which are, as it were, auxiliary to the main city monopolies as, for example, sewage farms, which they will endeavour to cultivate like the ordinary private farmer, and to make a profit. Or works for the disposal of the by-products left from the coal after the gas has been extracted for the lighting and heating of the town. As scientific invention develops, so possibility of communal as distinct from individual activity increases. One can conceive of towns running aeroplane services, or at least providing municipal aerodromes for all to use who please, like the roads, or charging a fee like the tramways. Or providing communal kitchens and communal crèches, and even medical attendance free to all on the ground that the maintenance of the health of each is in the interest of all.

Continental countries are familiar, for example, with the municipal theatre, the municipal music-hall, the municipal concert room, and the municipal beer garden ; and there is no intrinsic reason why you should not see in the future the municipal cinema showing edifying films, or the municipal public-house providing teetotal or weakly alcoholic refreshment. Whether a state religion may some day become so ' undenominational ' as to unite all varying sects in one municipal meeting-house may be a subject of conjecture. But it would at least appear to be a not illogical development of the ' undenominational ' religion which is taught at the public municipal schools.

In all such development the boundaries are only set by the fear of the ratepayers of debt or deficit on the one hand, and the refusal on the other of those who have interest in alternative schemes to be stamped out by the ' iron heel ' of municipal trade.



## CHAPTER VI

### LITTLE LAWS AND LOCAL LAWS

A TOWN Council can make no law. That is a fundamental principle of British local government. But it can in two ways obtain special laws which it considers suitable to its own local conditions. It can, and often does, promote a Private Bill in Parliament. And if it can pass that Bill through Parliament it obtains exactly the same authority to do the thing provided for in the Bill, as if the Bill was an ordinary Act of Parliament applicable to all towns. And secondly, it can pass by-laws, or little laws, as they are sometimes called, which form a sort of series of legislation within legislation, the filling up of a skeleton outline by more complete definitions and powers. These by-laws may be established under the general common right of the town to carry on the good government of the town, and were so established for many generations before they were authorized by statute. They could, however, be challenged, either as controverting some Act of Parliament or as against some common law right of British citizens. A by-law, for example, enacting that no red-headed men should walk in the streets between dawn and sunset, though not a violation of any Act of Parliament (for Acts of Parliament have not legislated specially for red-headed men) would, undoubtedly, if challenged by the red-headed before a court of law, be declared not enforceable, as repugnant to the common law of England.

This ancient and customary right of making regulations enforceable by penalty for the welfare of the

town, has now been transferred to statute law by a section of the Municipal Corporations Act of 1882. 'The Council,' declares Section 23 of this Act, 'may from time to time make such bye-laws as to them seem meet for the good rule and government of the borough, and for prevention and suppression of nuisances not already punishable in a summary manner by virtue of any Acts in force through the borough, and may thereby appoint such fine not exceeding in any case £5 as they deem necessary for prevention and suppression of offences against the same.'

We have thus two kinds of by-laws against nuisances. The first are made under definite Acts of Parliament authorizing by-laws, such as those under the Public Health Act, which defines as nuisances things like insanitary drains and dustbins. All such by-laws will not come into operation until they have been submitted to, and confirmed by, the Ministry of Health. But by-laws made for the good rule and government of the borough are not so controlled by the Ministry of Health, but come into force after forty days of their making, unless disallowed by the Home Secretary representing the King in Council of the Realm. Such by-laws are often so disallowed mainly on the grounds of a lack of uniformity in one common and similar urban area. For example, I remember we disallowed at the Home Office by-laws promoted by certain London boroughs making roller-skating an offence or nuisance on the footpaths; and this, not so much because boys going to school roller-skating might not be a nuisance to the general body of citizens, as because the boundaries of the London boroughs run down the middle of the streets, and this was a prohibition which should apply to all or none. For it seemed monstrous that boys who skated down one side of a street should be unassailable, while if they quite innocently skated up the other side, they should be subject to a penalty of £5.

Even if a by-law has been approved by the Local Government Board or allowed by the Home Office,

and violates no definite Act of Parliament, it still can be challenged, by any citizen who is aggrieved by it, as unreasonable. And if the Courts of Justice hold it to be unreasonable, it is no defence to say that it has been approved by the Central Authority. The question whether it is reasonable or not will be decided, not by an appeal from the Lower Court to the Central Government and then to Parliament, but by an appeal from the Lower Court to the Court of Appeal, and then to the House of Lords as the highest judicial court in the realm—not to the House of Lords as part of the Parliament which makes laws. Thus, for example, when a borough passed a by-law forbidding any one but authorized military bands 'to sound or play upon any musical instrument in any of the streets of the borough on Sunday' (aimed probably at the suppression of the Salvation Army in its earlier days) the Court of Appeal declared that it was unreasonable, and therefore could not be maintained. The Court agreed cordially that the playing of such instruments on a Sunday might be a 'nuisance' to the local inhabitants, and that in any particular case, therefore, it could prosecute these undesirable musicians if they were 'nuisances.' But they refused to allow the local Council to define the provision of wandering music in any street of the borough on a Sunday as in itself a 'nuisance', and therefore to be suppressed and punished quite apart from the question of fact, whether, at the particular place and time when it was playing, it was not providing joy rather than sorrow to every individual within earshot of its efforts.

The tendency of Councils all through is in this matter to prohibit, in rough and ready fashion, things which they dislike, or which the majority of the inhabitants dislike, or which they think all decent citizens ought to dislike. And the tendency of the Court of Law, in that fundamental respect for the liberty of the subject which, in spite of deficiencies and limitations, runs like a golden thread through the complicated history of British justice, has been to preserve the liberty of the

individual, and to refuse to impose any restraints upon it, unless these restraints are definitely embodied in a legal statute. Many passionate critics openly deride the assumption of law being associated with justice, and declare that the old Magna Charta assertion that justice should not be bought or sold, is in practice overridden by the manipulation of the law courts, by the enormous advantage given in them to persons of wealth and position, and by the fact, as Father Dolling complained of East London, that the laws for the protection of the poor are always left in the hands of those whose direct interest it is not to put them in force. There is truth in these criticisms, but not the whole truth. Time and again the Judges have defied both the wishes of the Central Government, the efforts of municipalities, and the storm of popular disapproval, by protecting persons, often poor and always unpopular, against all these when, as a matter of fact, those persons had done no legal wrong. You can see this operating at one end of the scale, when the Judges grant a Writ of Habeas Corpus in favour of some person whom the Government wish to destroy, who is denounced as a moral leper or traitor by the newspapers, and would be torn to pieces by the crowd ; or when, as recently, the whole of the Government regulations about import trade, in spite of the fiery protests of the Law Officers of the Crown, and the obvious fact that they were designed for the safety of the country at war, were suddenly swept away by a Judge of the Supreme Court. And you can see it, at the other end, in the protection of the humblest citizen in his business or pleasure against what a great writer has called 'the never ending audacity of elected persons,' by the determination of the Courts, in an appeal to common law apart from any protective statute, that the regulations fettering his freedom must be 'reasonable.' In the words of a great judge : 'Bye-laws,' said Lord Russell, 'must not be unreasonable. If, for instance, they were found to be partial or unequal in their operation as between different classes, if they were manifestly unjust, if they

disclosed bad faith, the Court might well say, Parliament has never intended to give authority to make such rules. They are unreasonable and *ultra vires*.'

I have laboured this point at some length because of its illustration of the fact which I have again and again had to return to, in description of how England is governed. It is a fact which is vital to the right understanding of the whole system, both of penalties to which all men, women, and children in the country may be subjected, or protections to which they may appeal. But it is a fact less generally understood than any other such fundamental principle. It is embodied in technical phrase in the statement that, although the Executive is responsible to the Legislature, and although the members of the Judiciary are appointed by the head or a member of the Executive, the Judiciary itself is quite independent of, and acts often in opposition to, the desire of that Executive, and only carries out the desire of the Legislature when that desire, through the passage of an Act of Parliament, has been embodied in law. By which is meant, in simpler language, that if the Government does not like what you are doing, or your neighbours wish to suppress any of your activities, pleasant or unpleasant, they can, in general, only carry out such suppression by proving that you have actually violated some definite piece of law which has made what you are doing illegal.

Governments are always wishing to silence opponents, just as crowds are always intolerant of minorities. And in attempting work of this kind they sometimes dig up statutes of Edward III or Henry VII, which no one has heard of, perhaps, for a hundred years, and prosecute on the allegation that an offence has been committed against these statutes. And if they can prove their case, they may be able to carry out their wishes. But they are compelled to submit the same evidence, and to convince as conclusively, as in the case of any casual tramp who is trying to claim half-a-crown from another; and unless they do this their case is dismissed as contemptuously as is that of the casual tramp.



The Government may appeal from Court to Court, but it is always to some body of Judges. If it is settled against them by the highest court in the land they are impotent. They can do nothing against the decision of Judges whom they can neither coerce nor remove. The law for the protection of the humblest and most unpopular citizen against the desire of a Prime Minister and all his colleagues, is as unbreakable as once it was defiantly maintained against an absolute monarch. And if, after its assertion, these attempted by direct action to break the decision, they themselves could be haled before the Court like the meanest criminal, and clapped into jail for an attempted outrage against the law.

And so we can come down from these high challenges of constitutional rights and usages to the application of its effect in the daily life of every borough and little city and country-side. The Town Council is responsible for the good administration of the borough inside the law, and not outside it. It has certain functions to perform in the carrying out of definite laws for the benefit of the citizens. It has a wide power of making little laws of the most varied kind for the benefit of the citizens. Regulations of building, dealing with the size of streets, the nature of houses which are allowed to be built, the maintenance and cleansing of streets, the supervision of houses and vehicles, the regulation of weights and measures, the regulation of trades with the forbidding of offensive ones, the conduct of lodging-houses, markets, slaughter-houses, theatres, and places of amusement—in these, and in numerous other cases, it may embody the wishes of the bulk of the citizens in laying down regulations and prohibitions which can be enforced by legal punishment. But these regulations have to be reasonable; general and not particular in their treatment; defended as necessary or useful to good order, and not merely means of penalizing individuals and unpopular minorities. One citizen alone can appeal to the Court against such provision made by a borough representing a million persons, and

if he can prove his contention, the Court of Justice will vindicate his claim.

But although the work of the Council is thus confined to administering laws, and can only make its by-laws or little laws within the limits laid down by these laws, it has practically unlimited power of endeavouring to pass Acts of Parliament to affect changes which are desired by the majority of the Council, and which are supposed to be agreeable to the inhabitants. All these changes have to be embodied in Bills submitted to the Central Authority at Westminster, and passed through all such stages (though with different procedure) as great measures, designed to alter the whole conditions of society, pass through.<sup>1</sup> Thus, at one time, the Houses of Parliament may be engaged in discussion of the giving of a new constitution to a part of the Empire, or the imposing of a tax which affects the pockets of all; at another, a proposal that some small and almost unknown country town shall be given power to provide a refrigerator, or to regulate trade in ice-cream. Various schemes have been propounded to relieve what is sometimes called the 'Imperial Parliament' from the detailed work of examination of these local matters; such as, for example, the formation of a number of subordinate assemblies, to which shall be allotted decision on such local affairs; or the giving to the great municipalities themselves of a more complete power of dealing with their own business. None of these have as yet commanded general approval, and the old system seems likely to continue for years or generations.

It would be tedious to describe in detail all the complicated and special procedure which has to be carried out before a private Bill becomes law. There are arrangements by which it must be proved to have behind it the settled support of the majority of the Council, and to appear to have the support of the town itself. There are arrangements for the classification

<sup>1</sup> These stages are described in a later chapter on Law Making in Parliament.

and qualification of those who wish, being injuriously affected directly in their interests, to prevent the Bill becoming law, or to modify it in some provision. And there are arrangements by which officials of the Houses of Parliament, the Speaker, the Chairman and Vice-Chairman of the Ways and Means Committee, the Lord Chairman of the House of Lords, shall examine in detail both opposed and unopposed private Bills in order to insure that the general public interest, as well as private interests, are not adversely affected by them.

The Bills have to pass through all the stages of public Bills, with this great difference—that the Committee stage, instead of being legislative and debating, is judicial. In an ordinary Committee stage of a public Bill, some forty or sixty members discuss each line of the measure, just as if it were a little Parliament, and no one else is allowed to open his mouth or interfere in the discussion. In the Committee stage of a private Bill, some four or five members who are supposed to be impartial are appointed to sit as judges, and these, instead of debating among themselves, listen to lawyers, who are paid immense sums of money, either by the Town Councils or by the opponents of the Town Councils, to argue in front of them for or against, in just the same fashion as if they were arguing in a law court. The Committee comes to a kind of judicial decision after hearing these arguments on the various clauses of the Bill, and reports its decision to the House; and if its decision is accepted the Bill then passes through the House of Commons and the House of Lords. You may have two such Committees with all the arguments recapitulated, one in the House of Commons, and one in the House of Lords, or you may have one agreeing to accept the other's decision; or you may have a Bill referred to a joint committee of both.

The whole of this work, which is carried on in small rooms in the Palace of Westminster, is almost unknown to the public, and only a few members of Parliament, who are interested in the subject, take part in it.

Through its operation, scores of private Bills and Provisional Orders are passed into law every year.<sup>1</sup>

Many great cities promote normally, as part of their natural activities every year, private Bills, to obtain powers which they think will benefit their town on a most miscellaneous variety of subjects. These are called 'Omnibus Bills.' Examples given in a modern work describe, for example, such Omnibus Bills as those promoted in one year by Halifax and Rochdale. The first was a tramway Bill, with a number of most heterogeneous clauses, including power to inspect milk-farms both within and outside the city ; also to prohibit the purchase of milk drawn from tuberculous cows, and for establishing reading-rooms and restaurants in the parks, for making regulations against noises in the streets, and for increasing the number of inspectors of nuisances. The second was a Bill to establish tramways and various electrical undertakings, to increase the expenditure on education and libraries, to obtain powers to regulate trade in ice-cream, etc. An examination of dozens of these will show that in general the desire is to do what other towns have already done, or to fill up gaps in general legislation, or to provide for the particular needs of a particular town in connexion with some particular development, as a watering place, or a commercial port, or a centre of industry, or a residential and suburban area. Or again, to press forward into some new municipal development of trade

<sup>1</sup> A Provisional Order is an attempt to effect the same purpose as a private Bill, with the saving of expense and complications. It may be roughly (not precisely) defined as a piece of legislation designed to effect the same result as a private Bill, but which is backed by a Government Department, and therefore receives a kind of preliminary guarantee that it is in the general public interest. Through such a backing certain expenses are saved, and a very large proportion of Provisional Orders go through unopposed. But if a Provisional Order adversely affects certain interests, those interests have the same right to oppose it before a Judicial Select Committee as they have to oppose a private Bill, and it is such opposition, with its enormous legal expenditure, which is the real subject of a cost which is something of the nature of a scandal.



or control, which may ultimately be embodied in general legislation for all local bodies. These last projects are the ones most carefully scrutinized by those concerned with private Bills, and are the proposals which have most difficulty in passing.

No one concerned with this enormous amount of local law would regard the apparatus for the making of it as altogether satisfactory. It is both cumbersome and costly. The expenses of it represent an enormous drain on municipal and other resources. In a period of seven years towards the end of the nineteenth century—not years of special expense, but a period chosen at random—the total amount spent by local authorities in promoting and opposing private Bills was nearly one million four hundred thousand pounds ; private companies expended nearly three million pounds, and the grand total expended in private Bill legislation was four and a half millions.

All this money passes to lawyers (the Parliamentary Bar being a lucrative branch of the profession), to agents, solicitors, clerks, expenses of witnesses, and a huge apparatus of vested interest in legislative litigation, not far different from that satirized by Dickens and others nearly a hundred years ago. It is difficult to understand why it is regarded as unnecessary for lawyers to be employed to argue before members of Parliament concerning Bills which affect the pockets of millions, but to be essential for them to be so in the passage of Bills in which Town Councils attempt to affect some small improvement in civic life. The motive power behind is undoubtedly the uniting of property and vested interest, in the fear that local authorities will treat these too roughly in seeking the general welfare of the community, at the expense of, or with indifference to, the possessions and rights of private persons. It is also due to the fact that municipal corporations, in many of their enterprises, such as supply of tramways or electricity, are in open competition with private companies who desire to obtain these monopoly rights. And as the stake is a



high one, and the booty great, by freely spending money on the apparatus of persuasion, these companies force the municipalities to a similar expenditure. A second blemish is that, whereas wealthy interests who think themselves liable to injury from any such private Bills, employ persons who are active and vigilant to protect them, the interests of the poor, if they conflict with the municipal ideal, are hardly preserved at all. They never know of the injury that is to be done to them until the blow has fallen.<sup>1</sup>

And the third criticism is of the enormous waste of time, energy, and money in dragging up mayors, town clerks, local solicitors, witnesses, whose expenses have to be paid from a town, say, in Cumberland or Cornwall, to argue their case before a tiny committee of four or five in Westminster, on points which only concern those Cumberland or Cornish towns. It is as if, to take a rough parallel, justice was administered solely from the central law courts, and there were no local magistrates, and no local county courts, and no judges or commissioners of assize.

In any case, here is the system as it exists. There

<sup>1</sup> An interesting example of this was provided at the Home Office, when I was there, by a private Bill, passed by the City of London without opposition, enabling it to make certain By-Laws for dealing with the sale of articles in its streets. The result was a submission of the By-Law to the Secretary of State, which designed to sweep suddenly away from all the principal streets of the city all costermongers and their barrows, many of whom had plied a perfectly innocuous and legal trade for ten, twenty, or thirty years, and all of whom, depending on the day City traffic demand, would have been completely ruined if the By-Law had been approved. We insisted upon such modification of it as would admit of those who had established through time vested interest in a trade hitherto perfectly legal, and even welcomed by the population, to continue in their avocation, and obtained the touching gratitude of the poor persons whom we had protected. But here was a case in which these persons had no knowledge of the doom which was being prepared for them by a private Bill, and no means of paying lawyers to put their case before the Committee. Whereas, if the Bill had affected the vested interests of, say, publicans or landlords, thousands of pounds would have been spent in endeavouring to prevent its passage into law.

is this to be said in its favour that there has never been a charge or even a suggestion of corruption in connexion with it, and that in itself is no mean gain considering the past history of municipal corruption, and present manifestations in other lands, with the enormous temptations offered by the advantage, often amounting to millions of pounds, which members of the Committee might give to private persons. It is also declared by a competent American critic<sup>1</sup> with experience of methods in his own country, that if 'The English system of private Bill legislation has its defects, they are far more than outweighed by its merits. The curse of most representative bodies at the present day is the tendency of the members to urge the interests of their localities or their constituents. It is this, more than anything else, that has brought legislatures into discredit, and has made them appear to be concerned with a tangled skein of private interests rather than with the public welfare. It is this which makes possible the American "boss," who draws his resources from his profession of private Bill broker. Now the very essence of the English system lies in the fact that it tends to remove private and local Bills from the general field of political discussion, and thus helps to rivet the attention of Parliament upon public matters. A ministry stands or falls upon its general legislative and administrative record, and not because it has offended one member by opposing the demands of a powerful company, and another by ignoring the desires of a borough council.'

Despite the eulogy of present conditions, it is probable that in the near future this system is destined to considerable change, and that by the application of what is sometimes called 'devolution,' the passage of local laws desired by the cities may be partially or wholly removed from Parliament and Westminster, and the way rendered easier and less costly for readjustment of boundaries and other vital civic requirements.

<sup>1</sup> Professor Lowell: 'The Government of England,' vol. 2, p. 391.

## CHAPTER VII

### HOW HE PAYS AND WHAT HE PAYS FOR RATES

**I**N considering these many activities of a Town Council, it has become more and more apparent that this Council has to spend money on a large scale. It has to spend on what I have called the first needs of civilization—police, lighting, drainage, etc. It has to spend on the luxuries it provides—parks, libraries, baths, museums. And it has to spend on the various municipal enterprises it embarks upon until these pay their own way. And if they never pay their own way, it has to make up the annual deficit upon them.

Where does all this money come from ?

In theory most of it comes from the 'Borough Fund,' which is made up of all the rents, or interest on the property possessed by the borough, and of such items as fines, port or market dues, ferry or other rights, or any money paid to the borough for any purpose, for any property or privilege which it can legally provide in exchange.

If the old boroughs had been wise in their generation, or the new boroughs less rigorously limited by Parliament, many or both might have been to-day in such a position as to derive enormous income from the Borough Fund ; adequate to pay both for the necessities and luxuries of civic life.

Many of the cities own land, inherited or in some way obtained from former generations, and these lands provide substantial rents, so that in some this rent substantially reduces the amount of the rates. And in

so fortunate a city as, for example, Doncaster, these rents provided all the municipal revenue, and there was no need to levy a rate at all.

If all the cities at the time of their great development had been given the power, and had exercised the power, of buying up the waste or marsh or meadow land that surrounded them when these lands could have been obtained for a few pounds an acre, they could have obtained all the 'increment' which has been piled up upon that land through the growth of the city; values of tens of thousands or even of millions of pounds, which have thus been given away to the original owner or the private speculator.

The question whether any of this 'increment' can be got back for the municipality is a question of political controversy, with which this book has no concern. But two propositions would be accepted by men of all Parties alike. The one is that growing cities are continually adding to the value of the land on which they stand and the land adjacent to them through expenditure on civic improvements to which the owners of that land itself contribute little or nothing. The second is, that if great towns like London, Liverpool, or Manchester had bought at market price a hundred or a hundred and fifty years ago the bulk of the land within their boundaries, the communal wealth would now not only be so great as to relieve the citizens from all rates at all, but would provide them also with such surplus as would enable them to make these cities more splendid and desirable than any cities the world has ever seen.

The reality is mournfully otherwise. In the overwhelming number of boroughs, contribution to this Borough Fund other than by rates (or the occasional profits of municipal trading) are practically negligible. The substantial bulk of the money required has to be raised by these levies which were originally intended to be only small and occasional contributions to the Borough Fund.

As an 'Income Tax,' fiercely hated by all, imposed

first to meet the necessities of war, and only continued from year to year with apology by governments of all Parties, has now become so firmly fixed in the national system of taxation as to provide the bulk of the national revenue; so these 'Rates,' perhaps more bitterly hated, which may roughly be called a municipal equivalent to the income tax, have practically swept away all other sources of municipal revenue, and have attained dimensions which fill the householder with consternation and despair.

In England of yesterday, and in European towns to-day, there were practical alternatives. In some Continental towns *Octrois* are established on all the roads leading to the city, and the merchants and peasants who bring food and commodities into the city have to pay a levy in accordance with a fixed rate on each particular article; and moneys thus obtained go to the funds of the city. Other towns have issued their own postage stamps, or their own paper money, or in various ways tax the stranger who visits them; or have even, as in the case of Deauville or Monte Carlo, or cities which run municipal betting, drawn large sums from the gambling instincts of mankind. But all such methods no longer exist, or never have existed, in England. The impost which raises the city revenue is this levy which is laid upon the annual value of property, occupied by individual householders and owners, which is called a rate.

And of all imposts which have ever been collected from the unfortunate families of mankind, none, I suppose, have been more bitterly hated than this municipal rate. The very name 'ratepayer' suggests a man writhing and cursing under an imposition from which he is unable to escape. A Ratepayers' Association is not, as a rule, an association concerned with the fact that the rates shall be well spent. It is concerned with the fact that the rates shall not be spent at all.

Part of the hatred of these rates is due to the fact that they form a direct, naked impost collected as a



substantial sum twice a year from the tenant who is occupying the house. This tenant, therefore, thinks that he is directly paying the rates, and not his landlord, and that if the rates go up, he is to that extent poorer. Whether, as a matter of fact, he does really pay the rate is a matter of controversy upon which many volumes have been written, with no very profitable result. If he owns his house as well as occupies it, he undoubtedly pays the rate, and any increase of the rate. The same is true if he is holding his house on a long lease in which he has agreed to pay all the rates. But even then it is doubtful if he pays as owner or as occupier. Whether, that is to say, if he could divide his personality into two, and charge himself what is called an economic rent for his own house, the rate itself and the increase in the rate might not come out of this economic rent, which otherwise would be greater or less in proportion. All kinds of attempts have been made to promote schemes by which the owner, instead of the occupier, should pay part of the rate; the most commonly advocated being a division of half and half. And undoubtedly, if such a scheme came into law in connexion with property held on leases, and with no provision made for a breaking or alteration of the leases, any desired amount could be legally and practically (if perhaps unfairly) transferred from tenant to owner until the lease came to an end. But whether in the case of all annual payments, if permission to break a lease was given, the landlord could not immediately transfer his new legal share of the rate into an increased rent, remains a subject of uncertain controversy. Does the landlord anyhow squeeze out of the tenant all he can get? Does the tenant contribute to the landlord all he can pay?

The second cause of this universal hatred is due to the belief that on the whole the enjoyments of one class are paid for by the enforced contributions from another. This does not appeal so much in the case, for example, of taxes for national defence, in which,

indeed, the rich have to pay much more than the poor, but in which the rich have more property worth defending. But in the case of such heavy extortions as the rate for Education or the Poor Law, the mass of the small middle-class householders find money taken from them for purposes from which they get no conceivable benefit. In America, all contribute to the common school, and all attend the common school. In England, for better or worse, the richer ratepayers are compelled to contribute to the common school, but their children do not attend it. And they therefore find themselves compelled to pay, for other people's children, amounts which they often desperately need for the education of their own. Why their own do not attend the common school is a subject of interest outside the scope of this book.

A third reason for hatred is specially among the householders who own their own houses, or have them on lease. For these find rates increasing owing to the votes or policy of those who do not pay rates, or think they do not pay rates, and these rates increasing with no means of escape, and no improvement in their income to compensate. Rather does the increase of rates on their freeholds and leases send down the values of these freeholds or leases, if they find the burden intolerable, and wish to sell out and move away. In the case of Income Tax, for example, variation is in proportion to income. And if you pay extra Income Tax with increased profits, you know, at least, that you are receiving increased profits, and are generally better off. But the rate has nothing to do with an income, but is levied on the house or land you occupy, and therefore may continue to increase while your income itself continually declines, and you have no remedy or redress. Iron-hearted officials send round demand notes insisting that you shall pay large and ever-increasing sums for objects you know nothing about, pursued by men whose names you have never even heard of. And if you refuse, you may be prosecuted, and your goods sold, and you

yourself clapped into gaol. A man can never be compelled to pay more than a proportion of his income to Income Tax; and if he is making no profit he will pay no Income Tax at all. But a man may occupy a house and land without making a penny profit, and without having any other source of income, and the inexorable rate collector will still demand from him his quota of contribution; even to twenty shillings in the pound.

It is for this reason that the chief cry against the rates is found in the country districts among the landowners and farmers, the value of whose real property, that is, the solid things, land and houses and buildings, is far greater in proportion to the value of their total property than in the case of the wealthier residents of the great towns. A millionaire, for instance, in a big city, may rent a small, commodious flat, or live in a suite of rooms in an hotel, and on such flat or rooms he would scarcely pay any rates at all. Whereas a man with similar property in land and country houses might pay, though no richer, a hundred times as much in rates as the other. It may be said that he has more real property to be protected, and therefore should pay more for the police, and perhaps more use of the roads, and therefore should pay more for their upkeep, although that argument is of less force to-day than yesterday now that the rich men sally forth from their cities into the country-side like bandits from a mediaeval fortress, and with their high-power motors tear up the roads of local authorities, to whose local highway rate (apart from national contribution) they provide nothing at all. But why the landowner should pay so much more than the homeless millionaire for the national support of the poor, or for the national education of the children of the poor, remains a controversial subject. The main reply is that, from time to time, beyond the memory of man, the support of the poor has been one of the obligations laid upon the owners of land, and that any

change would be a free gift from the whole community to the landlords. To these arguments the landlords reply that it was by no means certain at law that the burden of the Poor Law, and subsequent developments in social amelioration, should be laid only on real property; that this was only settled by a contested decision in an Act, not of settled legislation, but carried on temporarily from year to year. Their complaints appear to be so far justified that Governments are always giving them 'grants-in-aid' from the Exchequer to lighten the rates, or paying for services by the taxes, or passing Bills to lighten or diminish the burden of the rate upon agricultural land, to the indignation of the town populations. But the whole question of the rates, the incidence of the rates, who shall pay the rates, and in respect of what kind of property they shall be paid, is a subject of flux and upheaval, in which no finality has been established. A dozen Commissions have reported with divers recommendations. A score of Bills have been introduced and withdrawn year after year; and whatever form change will take, it is impossible to imagine that change will not some day come.

What are these 'Rates,' and on what system does the city raise money through them? They are not levies imposed upon the wealth of each citizen or upon the income of each citizen. They are levies imposed upon the tenant or occupier of each kind of property he occupies in proportion to the annual value which is set upon that property. This value is decided by a committee who are supposed to make a just estimate of the differing values; in the simplest case, for example, of the value of different houses. If the one is put down at forty pounds a year, and the other at eighty pounds a year, if the assessment is just, the one house would be equal in annual value to about twice as much as the other, and could be let at about twice the rent of the other, after calculated deductions for repairs. If you see a statement that



the rates are, say, ten shillings in the pound, this will mean that the man occupying the house valued at forty pounds a year will pay, in addition to his rent to the landlord, twenty pounds a year to the Municipality and Guardians for the various rates levied upon him for public purposes. And if eighty pounds a year is the assessed value, he will pay forty pounds for similar purposes, and so in proportion for all.

In dealing with rates, therefore, there are evidently two processes which are sometimes confused in the popular mind. There is first the making of the valuation of all real property within the town council or rateable area, which, after many complications, results in a final entry in the rate-book for a term of years of a certain figure in pounds, against the name of each particular citizen or company which occupies any piece or fragment of property within that town. And there is secondly the making of the estimates of the financial requirements for the municipal and other communal expenditure, the apportionment of the total amount as between citizens and companies so assessed, and the process of transferring that amount from private pockets to the Borough Fund.

The whole system of rating grew up automatically, and almost unconsciously. It started (for secular purposes) in the Poor Law of Elizabeth in 1602, by which the duty of caring for the poor in the parish was attached to the office of churchwarden, with special 'overseers of the poor' appointed by the vestry, and the duty laid upon them to levy such tax upon the whole parish as was necessary to keep these poor from starvation.

That tax, in order to be fairly distributed between man and man, required a 'valuation,' to see what proportion each should pay. That valuation was made by the overseers of the parish. Later, when the parishes in 1834 were united into Unions, governed by Guardians of the Poor, the valuation of the parish overseers was checked and rendered harmonious as between one parish and another by the Assessment



Committee of the Boards of Guardians. This became, therefore, the valuation of property for the poor rate. And as other rates came to be levied by the towns to pay for fresh duties laid upon them in connexion with public health, drainage, paving and lighting, water supply, and the like, and it seemed both expensive and controversial to have separate valuations of property, the assessment for poor rate came to be accepted as the assessment for all rates, and the value put upon property by the overseers and guardians as the values upon which were levied other forms of municipal taxation. The valuation is in some districts carried out by the municipal authority, and in many the actual collection of the money is conducted by them. But the system remains essentially unbroken. The whole revenue of these enormous cities, and their systems of raising it, are traceable back to contrivance by which, in a little England without railways or posts or telegraphs or great towns, arrangements were made that through the apparatus of the churches and the church officers, each little village should support its own poor.

This poor rate grew out of a church rate, which was the oldest form of local taxation in England, and which was levied on all the inhabitants of the parish for the improvement or repair of the parish church, and for the cost of the religious services within it. Of what a poor rate should be there seems to have been little controversy—whether it should be levied on visible property, or on all wealth and income. But as a matter of fact in those days there was not much wealth or income which was not visible property. The Judges of Assize interpreted the statute as meaning that the assessment 'ought to be made according to the visible estate of the inhabitants, both real and personal.' And it is this interpretation which has created that enormous difference between national and municipal taxation, and has been the subject of endless controversy. National taxation takes money from the individual in proportion to all the wealth

he has. Municipal taxation takes money from the citizen in proportion to the annual value of the house or land, or other visible or tangible thing within the limits of the town.

'Thus, the standard of ability,' says a well-known authority, 'or rather of rateability, was decided (in accordance with the obvious intention of the statute) to be *visible estate*. To avoid the mischief of a local inquisition into incomes was no doubt the aim of the legislature, and in accordance with this principle stock-in-trade was eventually exempted from valuation for rating purposes. So that 'visible property' for rating purposes practically came to mean real property. Thus was laid the foundation stone upon which is built the whole structure of local taxation in England. Local expenditure is still defrayed by rates. Rates are based upon the poor rate, and the poor rate is still governed by the principle laid down in this unrepealed Statute of Elizabeth.'<sup>1</sup>

The actual process is somewhat as follows. It must be remembered that there is always a valuation upon which the rates are being levied at any given moment. No assessment committee, that is to say, has suddenly to make a fresh start in the valuation of property, like the fresh start that was made in the valuation of land by the famous Budget of 1909-10. All that has to be done is to be valuing always new property when it is created, such as a new house, or factory, or cinema hall; and from time to time to revise the values of old property in accordance with the estimate of whether that property has gone up or down in value. A common method is to make what is called a quinquennial valuation, which formidable title merely means that the values are varied at the end of every five years. At this time the overseers go through their lists, announce that property is going to be re-valued for rating purposes, and proceed to alter the figures in the valuation book in accordance

<sup>1</sup> 'Local Government in England.' Redlich & Hirst. Vol. I, p. 24.

with their opinion of where value has increased or diminished. If, for example, in the case of houses, there is for any reason a house famine, and owing to competition for accommodation, rents are going up, it is exceedingly possible that the assessment of all the houses for rating purposes will go up also, to the no small indignation of the persons who are paying the same rent, and who cannot understand why, under such conditions, their houses should be regarded as of greater value. If, in another district, the population is diminishing, and the houses are large and derelict, the valuation, or the successful appeal against the valuation, may cause a reduction of the former figure, owing to the fact that the actual value of the rent of the houses must be lower. And this also is independent of the fact that in many of them the rent itself has not varied. These changes, the principles of which are little understood by their victims, have helped to excite a general distrust of the methods of overseers and assessment committees, and undoubtedly there are few more unpopular officials than those who carry out this task of extraordinary difficulty and complexity. Beyond the question of variation or favouritism, as it is sometimes unkindly called, between different sections of the same kind of property, such as inhabited houses, there are further charges of favouritism between different kinds of property. One assessment committee will be suspected of over-valuing factories and under-valuing houses, or under-valuing both factories and houses, while over-valuing land or vice versa ; or, as in the commonest charge, of under-valuing the property of the citizens, while over-valuing the property of those who are not citizens ; such as, for example, a piece of railway which passes through the parish or town. And, indeed, it would seem almost to pass the limits of human intelligence rightly to estimate the value for local assessment of a piece of trunk-line of railway, which perhaps receives little or no traffic from the parish through which it passes, but is merely a kind

of pipe-line, putting into communication populous areas on each side. Then there are charges of variation between one parish and another in the same assessment area. And there are recognized enormous variations between different assessment areas. One local authority finds it convenient to put all the valuations high, and thus impose a smaller general rate in the pound in order to obtain a sum of money equivalent to that which another local authority will raise by putting all the valuations low, but imposing a larger rate in the pound. Such variations are stimulated largely by the methods and conditions under which grants are given in aid of the rates by the Central Government out of the taxes, it being the object and purpose of each local authority so to adjust its valuation (within limits) as to obtain the greatest possible contribution from the Exchequer, under any system which the Central Government can devise.

The 'real' property on which rates are thus levied consist of things visible and tangible which 'can be touched, tasted, and handled' by any visitor to the city to whose welfare the rates are supposed to contribute. This definition immediately rules out all personal wealth paid in the form of dividends on investments in companies either operating in the town or beyond it. It also rules out the profits made by shopkeepers, merchants, professional men, and others, which are not subject to direct municipal taxation, although it is a complaint made by many such that the assessment is unfair to them as compared with their neighbours, owing to the fact that they require special building accommodation: a shop, for instance, requiring a large amount of floor space, or a doctor requiring additional accommodation for his dispensary. Machinery is thus valued and rated as real property, although at a lower rate for some purposes than houses or buildings. And agricultural land is rated at what is supposed to be its annual value, although the occupier only pays half of the rate levied on it, and the other half is paid by the Government out of a



grant from the taxes. 'Stock-in-trade' is not rated, although attempts have been made to bring it in, in order to relieve the rates on property. And private furniture and possessions are not rated, the valuation of any house being decided by the amount it would be supposed to be worth, year by year, when empty, to a new tenant, altogether independent of furniture or rich possessions contained therein. But empty houses are not rated at all, except where the landlord has 'compounded' under conditions which I shall describe later, and empty land is only rated on what is supposed to be its annual value, quite apart from the sum it might sell for as a building site.

This system of rating is being subjected to continual attack. Its assailants wax sarcastic over a method which they describe as 'penalizing improvements.' A man adds an enlargement to his factory, or puts a bathroom in his house, and directly the quinquennial valuation comes round, the vigilant eye of the overseer or assessment committee notes the increased value thereby created, and immediately, by increasing the valuation, claps an additional tax on him. He has, indeed, no other alternative in the present legal definitions of valuation for rateable purposes. This system is called by its critics 'penalizing improvements.' On the other hand, if a man spends nothing on his house property, and allows it steadily to decay, he will be able to appeal to the quinquennial valuation that it is not worth so much as it was five years before. And if, as a matter of fact, it is not worth so much, its value will be reduced in the valuation book, and for the next five years he will pay less rates. This has been called rewarding negligence and penalizing enterprise.

These facts have led to the advocacy of many different schemes of dealing with the rates, some of which would exclude improvements altogether from increased assessment, and throw the burden or some proportion of it upon the land on which the town is built. When it is objected that the value of the



rate might be more than the value of the land, they reply that this value is a standard only, and that there is no reason why you should not have a rate of twenty, forty, sixty shillings in the pound. And this is now proving true with the present rating of buildings, etc., which, in some districts, is over twenty shillings in the pound to-day. This fact perplexes some observers, who think that it is impossible for any one to pay more than twenty shillings in the pound, as in that case he would have nothing left. They are confusing rates with income tax. You cannot pay permanently an income tax of twenty shillings in the pound, because that would mean more than your whole income. But you can pay in rates to that whole amount, or even higher, because a rate is levied on that part of your income which is expended on rent of houses, factories, land, etc. The theory which supports the present system is generally that the value of the house occupied is more or less proportional to the income of the tenant, and that the advantage gained by increased expenditure on communal welfare can be in part estimated as being proportional to the size and value of the actual property which the tenant owns in the town.

Others, again, advocate a levy of rates on the capital value, instead of the annual value of land or property; and others advocate a real municipal income tax; and others ask that many municipal services should be taken over, and paid for, by the Central Government. Or as England has become so much divided into cities of the rich and cities of the poor, some advocate larger areas of rating, in order to make larger areas of equality between one and the other. However these questions of policy may be, no one who has examined the system has any doubt at all that the valuation as at present carried out is profoundly unsatisfactory. Repeated attempts have been made to introduce Bills to put it on a sounder basis, either by improving the municipal valuation, or by making one central

national valuation, which will fix a uniform standard throughout the country, or by a combination of both. But none of these have succeeded, partly because they were opposed by interests who thought they would be affected injuriously, and partly because, whenever the question was raised of improving the present method of valuation, the question was immediately raised of changing the subject of valuation; so that, immediately, a Bill for improvement of machinery only, became a Bill of violent political controversy. So the valuation for the rates in England remains to-day local, variable, and more defensible as a survival from an historic past, than as a just and efficient basis for local taxation.

It is interesting as an example of how law-makers sometimes fail to foresee the results of their labours, to note what a profound influence on municipal development has been produced by the introduction of an almost casual clause in a Bill designed to save the ratepayers' money. This is the clause which allows what is called the 'compounding' system.<sup>1</sup>

It was felt ridiculous that, in the collection of rates among poor tenements and cottages, the town councils should spend large sums in employing rate collectors, calling from house to house, and scraping up with the greatest difficulty the pennies or shillings required, with the certainty of enormous numbers of deficits among the very poor, who would never save up the money to pay the half year's bill, and consequently of expensive and unpopular prosecutions. The happy expedient was therefore devised of allowing the owner to 'compound' the rates of such cottage and tenement property by paying them himself instead of the tenant paying. In return for doing this, he received a deduction of 15 per cent on the

<sup>1</sup> The clause was first introduced in the Poor Rate Assessment and Collection Act, 1869, Section 4. As the other rates, as they grew up, were all based on the poor rate assessment and collection, it came to apply to them also, and by the Municipal Corporations Act of 1882, Section 147, it was definitely embodied in the law dealing with the borough rate.

rateable value of such property, which was supposed to cover his expenses of collecting the rate from the tenant, and a further deduction of 15 per cent if he paid the rates for a whole year on such property. The theory of the system was admirable. As the landlord has to collect weekly rent, it was assumed that his machinery could be used to collect rates weekly from the same tenants; and as in such a weekly tenant system, occupiers passed in and out with perhaps weekly or fortnightly intervals, it was evidently better not to make an attempt to estimate how much of each half year was actually occupied, or by which transitory tenant, and to allow the landlord to obtain some fixed rebate in return for the assumption that this cottage property was occupied all the time.

But in practice this clause has produced results so momentous in character as to have had probably the greatest effect of any legislative effort upon the development of the civic activities of England. For, in practice, the landlord does not collect his rent and the rates. The calculations alone of variable rates broken up into weekly portions, would be an expensive transaction. He therefore provides his customers at 'rate-free' rents, i.e. he lets a cottage at five, seven, or ten shillings a week, a rent which includes the rates. And the cheerful tenants have no idea that they ever pay rates at all. What the devisors of this ingenious clause seem to have overlooked was that these same cheerful tenants are the electors who have to decide from time to time whether they would like more money to be spent out of the rates on their social improvement or no. Law after law carefully devises the most elaborate safe-guards by which the 'burgess' shall, in all such cases, carefully weigh up the advantage of each improvement on the one hand, against the cost of the improvement on the other. In some cases there must be a town meeting, in others a poll of the electors. Every year, at the selection of councillors, each candidate must declare whether he is in favour of a lavish or frugal expenditure. But in the cases

where the majority of the electors think that they do not pay rates at all, these checks are manifestly useless. They can 'pack' a town meeting; they can carry a plebiscite; they can elect the councillors who promise most fervently to give them something for nothing. Why should they not have more parks and playgrounds and museums and municipal concerts and swimming baths and libraries if they can get all this for nothing, and only the wealthy pay?

The remedy for irresponsibility created by such a system has not yet been found. The observer, as on an historic occasion, will only be astonished at the moderation of this bulk of electors in not pushing expenditure far above its present levels for their own benefit. Most of the cities, however, have hitherto confined themselves to providing not what the bulk of the people want, but what they think the bulk of the people need. And it is found difficult, therefore, to raise enthusiasm for, say, museums, which no one enters, or libraries from which few of them borrow books, or expenditure on improving the lot of paupers, when they are each determined never to become one. If the towns were to break out into such activities as municipal cinemas, municipal football clubs, or free municipal excursions into the country, or any similar popular evidences of a civilization, the enthusiasm of these non-rate-paying electors might sweep the resistance of the unhappy ratepayers into an outlay which would end in municipal bankruptcy. And, as a matter of fact, the direct ratepayer of small income, the 'toad beneath the harrow' of the old rhyme, who 'knows exactly where each spear-point goes,' in most cities compensates for his numerical inferiority by his active and vigilant opposition to all superfluous municipal expenditure, while the great mass of the others take little interest in public affairs, and can only be persuaded with difficulty to vote at all.

Attempts to provide a remedy for this state of affairs seem rather hopeless. It is suggested that the landlords and their agents should instruct their



tenants, when rent is raised on account of the rates. But the weakness of this policy is that the landlords raise their rents whenever possible, even when rates are not raised, and that in no case would the tenants believe the landlords' statement on the matter.<sup>1</sup> For they are convinced in a popular belief of what many economists regard as a profound truth, that the landlord sucks out of them as much 'rent' as he can, whether that 'rent' includes rates or not, and that he would just as much raise their rent, if he thought they could pay, if he had just married a wife or increased his family, as he would on account of the fact that he had to pay some extra sum for local or national expenditure. If this theory be correct, these tenants may not be so foolish as they appear if they vote for a lavish expenditure of municipal improvements under the belief that they do not pay for it. They may rather be acting in conformity with the wisdom of sagacious political economists, who, in their definition of such rent as the surplus which is left after the means of subsistence have been provided, recognize that an increase of rate can be thrown on that economic rent to almost an unlimited degree, until the failure to provide interest on capital expended stops the building of such tenement property at all. I do not wish here to take sides in such a controversy. I merely wish to indicate that such a controversy exists. But of the outward fact of such compounding, there is no doubt at all. It has been a very appreciable factor in the enormous increase both of borrowing and spending, for better or worse, in the local government of England.<sup>2</sup>

<sup>1</sup> All this process has, of course, been checked or destroyed by the post-war Rent Restrictions Acts. But the arguments apply to normal times, when such restrictions are removed.

<sup>2</sup> It has been said of one working-class city that the freeholds in the greater part of the town are all owned by one man, while the electors are all working-class tenants. These tenants annually vote large and expensive improvements to the town, in the comfortable security that this gentleman and not they will have to pay for them, and to his increasing exasperation.



Such, then, is the valuation upon which the rates are based. The figure of such valuation remains unchanged for a term of years, and upon this figure the proportion which the individual occupier pays is settled. But the total amount necessary for the municipal revenue varies from year to year, and therefore he will find demanded of him a continually altering amount of so many shillings, and so many pence in the pound.

Rates are varying in nature. There is a poor rate assessed by the Guardians, a body completely independent of the Town Council, for the service of the poor law. There are various rates laid on the town by the Council itself, some for general and some for special purposes. There may even be in the case of some smaller towns a county rate laid upon the population of the town for some general purpose controlled by the council of the county in which the town is situated. The town itself will have a borough rate, and probably a district rate, as well as, perhaps, a library rate, or other rate levied for some special purpose which the town has either adopted from an Act, or obtained a special Act to provide. The expense and nuisance and irritation caused by such varied imposts, have tended towards consolidation, in which 'the rates' are all included in one half-yearly demand. And when the statement is made that 'the rates' in one town are twelve shillings, in another twenty shillings in the pound, it is this collective demand which is referred to. Many local authorities, indeed, in their printed requests for payment, furnish the ratepayer with an analysis of the total amount, showing so much of this twelve or twenty shillings to be required by education, so much by the Guardians for poor law purposes, so much as a library rate, and so on. The ratepayer is thus informed of the various burdens laid upon him, although not specially cheered by the knowledge. The ratepayer whose rates are compounded by his landlord receives no information at all.

How is the amount arrived at ? It is a fundamental principle of municipal finance that each year or half year shall pay its own way ; and that the ratepayers of any such particular period shall pay for the expenses of municipal government for that period only, and not be troubled by having to pay for deficits in the past, or made happy by the throwing of the burden of their expenses to the future. This principle does not indeed prevent the town councils from borrowing money. They have borrowed money in enormous quantities, both with the aid of the Government Treasury, and independent of it. But this borrowed money has always had to be spent in some special capital enterprise of a lasting nature, either by the authority of a local Act passed through Parliament, or under some general power of a municipal Bill with the sanction and approval of the Local Government Board (now the Ministry of Health). Money has thus been borrowed for general sewage works, for the making of a water supply, or a gas or electric light supply, for the building of a town hall, for the clearing of slums, or the building of houses to be let to the working classes. It is quite evident that the expense of such enterprises as these, which may last fifty or a hundred years, could not possibly be thrown on the rates of the particular year in which they were constructed, a proceeding which would make the ratepayers of that year half bankrupt. Borrowing for these permanent works is, therefore, permitted, but only under two conditions. The first is that interest shall be paid out of the current revenue, that is the yearly rates, upon the money thus borrowed, which interest is guaranteed to the lenders of the money upon the security of the whole property of the town. So that if the rates fail to provide the money, these investors could come in and seize the whole property of the town, and sell it, in order to get back their capital and interest. And the second is that, in addition to the interest on the loan, the ratepayers shall pay every year a certain amount of money into what is called a sinking fund, which merely means

the setting aside of this sum to repay part of the capital of the loan itself. The amount thus set aside for a sinking fund varies with the nature of the property which has been created by the original borrowed money. The general theory is that the total debt shall be paid back within the life of active working and usefulness of the property itself; in other words, that the generation which enjoys the advantage provided by that property shall itself pay back the cost of that property, and not leave a later age debts incurred by it for things which have actually been used up, and become useless. Thus a municipal gas supply will have a sinking fund of a certain number of years, and when, through the operations of that sinking fund, the original debt is all paid off, what is then left of that gas supply is, as it were, a free property of the whole town, a gift from the past to the future. Towns are allowed to build houses with conditions of repayment of capital expenses within a comparatively short term of years, by means of a sinking fund, and to buy land to build these houses on at a longer period of repayment; the theory being that while after some time the houses will be worn out, the land will never be worn out. It is evident that if you have to pay back, say a thousand pounds by a series of annual payments in thirty years time, these annual payments will be very much more than if you can spread them over sixty or eighty years. And as a lessening of these payments means less rates laid on present citizens, there is always a tendency among the councils themselves to spread out the term for as long as possible, in accordance with the general principle—what has posterity done for us, that we should do so much for posterity? And this tendency is always being checked by the Central Authority and Parliament, who are supposed to represent the interests of a State whose life is immortal, and to ensure that the enjoyments of the present citizens shall not inflict unfair burdens upon generations as yet unborn.

Apart from these loans or borrowings for these special purposes, the rule is rigorous that a town council must pay its own way year by year, and as far as is possible make its annual expenditure and income exactly balance. It may borrow money for buying and constructing a park or its own city offices. But it may not borrow money for the upkeep of the park, or for the payment of the salary of the officials in those city offices. All such expenses come into the yearly or half-yearly budget. This budget is presented to the finance committee of the council by the officials who are responsible for the various forms of expenditure. So much is wanted by the watch committee for the police, so much for paving and lighting and cleansing the streets by the committee charged with this work. So much is the grant given to the Mayor for the payment of municipal servants, a Recorder, a Stipendiary Magistrate, a Treasurer, a Town Clerk, and so on. So much again will be required for the payment of interest and sinking fund on former capital expenditure. All these as estimates for what will be required for the coming year or half-year are gathered together and as a rule sanctioned by the council. Then the amount required in each case, divided by the total rateable value of the property in the borough, will give the amount per £ which will be required by the owners of that property for the particular year or half-year. That amount is then levied on these occupiers, and becomes the legal rate from which they cannot escape, and failure to pay which can be visited with fine or imprisonment. A series of collectors are appointed who worry the burgesses by correspondence or personal visit until they have got paid the amount due to the town from the citizens.

In a brilliant political play, in a discussion of a Parliamentary intrigue, the question is asked but not answered, why the voice of the ratepayer is always so vocal, and the voice of the taxpayer always so silent? In other words, why it always seems the



easier course when some new expenditure on social improvement is demanded, to make the national exchequer pay, rather than to 'put it on the rates?' It is difficult to give a simple explanation for this undoubted fact, more especially as such a large proportion of the population are not conscious of paying rates at all. In answer to this point, however, it may be said that this same proportion of the population are barely, if at all, conscious that they pay the taxes at all, and that in any case their opinion is regarded as negligible by most politicians, parliamentary or municipal, except in the months which immediately precede parliamentary elections. But undoubtedly the main fact is true. The rate collector is a thousand times more unpopular than the tax collector. And yet all the instinct should be quite opposite. For the citizen can see and enjoy the result of his local expenditure in clean roads and streets, well paved and lighted, in efficient sanitation and water supply, in picturesque parks in which he can walk abroad in daylight, or the volumes of learning or amusement with which he can occupy his leisure after darkness has fallen. Whereas rarely, if ever, can he point to any direct increase in happiness or comfort given to him in the money he is compelled to pay to the Central Government of his country.

The explanation of this unnatural estimate of values is probably a complex one. One reason may be that for the bulk of the citizens, before the burdens laid upon them by the Great War, much of the taxation levied on them was so wrapt up and concealed, that they were scarcely conscious what they paid, or that they paid at all. It was largely disguised in the varying prices of such commodities, tobacco, beer, tea, sugar, whisky, and the like, as to be almost indistinguishable from variations caused in the world market for these goods, or the amount of profit extorted by brewer, grocer, or publican. And even in the case of a direct impost laid upon him in an income tax, which corresponded, in form at least, in actual extortion of hard



cash in a demand note to the municipal rate, the amount before the war for the bulk of the middle classes, with its numerous abatements for small incomes, was much less formidable than that demanded for municipal expenses. And the amount since the war is rendered less intolerable by the belief that it is being part of the price paid for the smashing defeat of Germany, and the establishment of British supremacy in the world.

Again, the taxes are paid to a Government of the whole country which, despite the bitter attacks upon it at any moment by its opponents, has in the past retained elements of almost mythical greatness. A visit from one of the Ministers, whose name is in every newspaper, is regarded as an event in a provincial city. The individuals find it difficult to associate the idea of inertness or corruption with such mysterious and splendid personalities as Disraeli or Gladstone, Joseph Chamberlain or Mr. Lloyd George. But in the case of local government, it is the permanent conviction of a considerable mass of the citizens that the town council is both inert and corrupt. It is made up of like men with themselves, living in the same street, often of no conspicuously superior talent. Sometimes it includes men who, having failed in the work of business and money-making, have leisure for local politics, and who, getting into what are called the Party machines, are selected by these machines as candidates for office. 'Is not this the carpenter's son; and his brethren, are they not among us?' is a sentiment of human nature not in the least limited to the contemporaries of the founders of world religions. And to great bodies of decent citizens, working hard for a decent standard of life for themselves and their children, who take no interest in municipal government, and can scarcely be persuaded to vote at elections, the subject of the rates and the expenditure for which these rates supply money, and the men who are causing that expenditure, are subjects of bitter humour and bitter scorn.

In many respects these humours and scorns are unjustified. Actual corruption is rare in local government—certainly, infinitely less than in the days when the power was in the hands of a limited number of the wealthy and landed classes. To-day, when present, it rarely extends much beyond a tendency to favour the appointment of members of your own Party, or the friends of your own friends. And the occasional scandals which are revealed in connexion with the allocations of contracts, or the appointment of officials, serve in the main to show that publicity, a revised standard of public honour, and the weapon that such a revised standard provides in the vigilant watch of opponents, who know how one fall can be made fatal to their adversary, sufficiently demonstrate that these practices, as well as their exposures, are but occasional. So far as inertia or inefficiency is concerned, the actual administration of the great enterprises undertaken is so completely maintained by an exceedingly efficient municipal civil service of permanent officials, that the slackness or incompetence of the committees of the council which are entrusted with the work of supervision, have very little effect upon success or failure. If a company has an efficient managing director, and a really competent staff working under him, the fact that his board consists largely of dummies, partly of incompetents, or partly of half-witted, is little substantial handicap to the success of the enterprise. And although a majority of the town councils are not incompetent, and only a small proportion half-witted, it is manifest that the success of such a great business enterprise as a municipal tramway system, or a municipal electric light and power supply, must depend to an overwhelming degree upon the men selected for the daily work of maintenance, and only to a very minor extent upon the intelligence of the non-expert men and women who meet for a few hours a month only, in lives engaged mainly in other interests, to listen or to approve or to criticize such reports as these officials lay before them.

The sentiment will, however, remain until the majority of the citizens take an active interest in the life of their city ; and pride in the development of their city ; and a determination that the most active and efficient men and women shall be persuaded to give to that city disinterested service in the honourable call to public affairs.

## CHAPTER VIII

### HOW LONDON IS GOVERNED

**I** HAVE described in detail the powers, methods of election, and working of town councils as distinct from local authorities outside the towns, and I have done this for two reasons: first, because they form the unit of local government under which the majority of the people carry on their business and pleasure; and second, because the other local authorities have been built up on the model, which has been provided by the Government, of the cities, with only minor variations to adjust the city systems to non-urban areas.

It has been calculated that four-fifths of the people live in these urban areas, either within the boundaries of a town, or in the crowded town districts which lie just outside the boundaries, and have not yet been absorbed within them, or have minor local authorities carrying on a kind of imitation of town municipal life.

In the No-man's-land outside there is considerable complication and confusion. County Councils have certain powers over the whole area of a county. Within this jurisdiction, and for the most part independent of it, urban district councils in the urbanized portions, and rural district councils in the countrified areas, exercise much of the power, and carry out many of the duties of a city municipality. Many of these smaller municipalities themselves are in part under the control of the County Council for certain purposes, and deprived of the complete freedom enjoyed by the larger boroughs. Special arrange-

ments are provided for dealing with the very small and the very big. At the one end, each tiny wayside hamlet was endowed with a Parish Council or Parish Meeting, at which groups of a few score labourers were given certain very limited public powers, in an effort, which has been mainly unsuccessful, to revise the ancient parish communal life of 'Merrie England.' And at the other end, a London whose growth has exceeded all rational and desirable dimensions, sprawling over six counties at the mouth of the Thames, has swept away by the mere solid magnitude of its impetuous increase, all efforts to make out of it a rational, self-conscious unity, with local interest, public spirit, and pride; presenting a problem before which the theoretical reformer is perplexed, and the practical statesman dismayed.

Here is a problem arising from the fact that too much population has broken down all the system and standard which, on the whole, works fairly well in cities of reasonable dimensions. 'England will shortly become London, and London England,' is the pathetic cry from the days of James I, when Westminster was not much more than a rural village, and the hills of the north and south, and the marshes of the east, still unoccupied. To-day, you may journey from Westminster in any direction—north, south, east, west—literally through miles of shabby, clay-built two-story cottages, without ever coming to the limits of 'Greater London.' Most of the inhabitants of this gigantic labyrinth of human habitations have never seen the place where the town gives way to the country-side, at the limits of the region in which all their lives are confined. When they visit this country outside, they go packed in trains swung on high embankments, or struggling through tunnels and deep cuttings, in which they suddenly find themselves in a different universe from that they have ever known. Every year, on the outskirts of the expanding city, before the war stopped building, there was plastered on this gigantic hive another layer of packed cells,



occupied as soon as built, by immigrants from all the British Isles, sucked up into what Cobbett called 'the Great Wen.' And among these layers, remote from the heart of the gigantic aggregation, the circulation of whose systole and diastole but faintly moved the circulation in these remote regions, conglomerations of mean streets took upon themselves quaint and random titles, and commenced feebly to function in municipal life. So that men without any knowledge of it, and who thought they lived in 'London,' found themselves members of a kind of lesser township outside London which called itself East Ham, or Hendon, or Tottenham, or Richmond. The local patriotism and pride of London itself is of an extraordinary low vitality, and in no degree comparable with the enthusiasm for their own city exhibited by the inhabitants of such places as Manchester, Leeds, Newcastle, Sheffield, or Birmingham. But when that civic pride was further diluted by the fact that men who spent most of their life in London, and whose homes were little more than dormitories, found these dormitories organized into municipal districts and municipal cities which were not even in London or part of London, it is not surprising that they showed neither enthusiasm nor concern in such development. The interest in municipal life, among these crowded and newly-created suburbs, is distinguished by an apathy and indifference far beyond that of the provincial and historic towns.

One great attempt was made some thirty years ago to make a united and reputable authority which would stand before the world as representing London. This was by the creation of the London County Council. The new body covered the area and exercised authority over a considerable proportion of the London aggregate. Notable and distinguished men in politics, literature, science, and practical affairs were persuaded to take part in its work. Its deliberations were reported in the popular newspapers. Its triennial elections created enthusiasm and controversy. For

some years there seemed a likelihood of London developing a self-conscious and efficient municipal life, similar to that maintained by the great provincial cities. Those hopes and interests have, however, largely died away. Its death is partly due to the return of apathy in face of such aggregations, which seem unable to entertain the idea of any particular local patriotism in so crowded and stifled a universe. But it is partly due to the limitations placed from the start upon the London County Council.

On the one hand, at the heart of it, there remained a separate organization, the City of London, still maintaining some of the characteristics of the old unreformed boroughs, with ancient customs, great wealth, and historic prestige, independent and defiant of the democratic constitution, which had been imposed upon all other English boroughs. With its own police, its own jurisdiction over a tiny square of the great chessboard of the metropolis, its ancient ceremonies and feastings, its Lord Mayor's Show, its city banquets, it represented an isolated and hostile element, independent and a little contemptuous of the authority which ruled over the surrounding area. And the result is that the whole apparatus of London government appears like a pyramid whose top has been sharply sliced off, or has never been completed. And 'London' remains the only great city in the world which has neither a Mayor nor a Lord Mayor of its own. In all civic ceremony, in the entertainment of royalty or foreign potentates, in times of the expression of the popular will or a national appeal, the Lord Mayor of London, with his aldermen and common council, in the historic Guildhall, completely eclipse, and almost, indeed, entirely obscure the Chairman and members of the 'London County Council' in the squalid litter of their offices in private houses; who merely carry on the apparatus of municipal civilization amid four and a half millions of a rather drab, and mainly indifferent, civilization.

The second disability from which the London

County Council suffers is due to the profound mistake which was made when its area was so limited at its creation. With an adequate estimate of how this aggregate of population was going to develop, its boundaries were drawn round a district containing (now) some four and a half millions of people, leaving outside only comparatively unimportant suburbs. But these suburbs have grown to at least another three millions, forming great cities as big as the historic towns of the north or midlands, although their light is hidden by the fact that they are merely subordinate to, and parasitic upon, London.

The result is that the London area to-day, which is controlled by this central municipality, is a piece of land almost entirely surrounded by towns, with every kind of choking and cramping disability that such surroundings must give. It can establish no considerable development of houses for its working people, as other cities can, within its borders, because its own land is nearly all built upon. Its trams have to cease, quite artificially, at a spot in various unbroken rows of houses which are not natural boundaries at all. Its water supply is provided by a most complicated body, mingling together its own representatives with the districts and towns outside it. It cannot provide the wide stretches of park and open space, as has been done by so many growing cities of the Continent, all round the borders of its intolerable multiplication of houses, because these borders are entirely in the hands of the small, divided, and fiercely jealous district authorities outside, whose interest it is to increase rateable value by covering unoccupied land with houses as speedily as possible, and who see no reason why they should spend money in providing open space for any but their own limited population. The huge docks of London on which its prosperity mainly depends are, in the main, outside its boundaries, and entirely outside its jurisdiction, run by a most complex Port of London Authority, on which it has only the power of nominating a small

minority of members. Nor has it any real effective power, except by elaborate negotiations and appeasements of jealous and hostile councils which everywhere surround it, of driving through great, broad, arterial roads out from the centre to the country-side, the absence of which is rendering almost desperate the traffic and locomotion problems of London. Everywhere there exist anomalies and confusions. The London postal area is quite different from the London County Council area, and the London police area flings its activities far out into the rural neighbourhood, and into regions which appear to be universes away from the great smoky centre and heart of the Empire. If, on its creation, the boundaries of the London County Council had been flung back another ten or fifteen miles in every direction from Charing Cross, one can conceive of the possibility of such a splendid development of municipal life in the greatest aggregate centre of population in the world, as might have built up a city for the wonder and admiration of future times.

Within the County Council area there was constructed by a special Act of Parliament twenty-eight London Borough Councils. They exercise powers in some degree similar to those boroughs outside the metropolis, but powers in part curtailed by the existence of the London County Council itself. They are directly elected in elections held at a different date from those held by the London County Council. They are neither nominated by the County Council, nor can they nominate members to that body. And as they are engaged in overlapping work, they are in a state of more or less continuous friction with the Council, and there is little love lost between them and the Council. Each can claim to have the authority behind it of direct popularly elected representation, and each can therefore assert its authority against the other, although, as a matter of fact, the miserable percentage of citizens which can be stimulated into voting for County Council candidates is never, as a rule, even halved by the still more miserable percentage that



unwillingly shambles to the poll in the election of a London Borough Council.

Both in numbers and in interest these London borough councils form a kind of nadir of British municipal life. Attempts were made to endow them with some resemblance to the old municipal life of the cities of England, and each was even given a Mayor, which the London County Council itself was denied. But the whole thing has proved but a caricature of civic development. They could neither draw upon the enterprise and local patriotism of some great new manufacturing town, nor upon the picturesque and dignified tradition of those little boroughs whose civic life extends in unbroken tradition through hundreds of years. From the first, they were not more despised by others than they despised themselves. Few men of energy, intelligence, or ambition in these gigantic labour cities were willing to give themselves up to work which earned no honour, was performed without observation, and gave little scope for talent and zeal for reform. The *personnel* sank back into occupation by minor members of the political caucuses, Tory, Liberal, or Labour; many of whom laboured hard in a work handicapped from the beginning by the fact that no one cared whether it was done ill or well, that no newspapers of any importance gave any publicity to their doings, and that the greater part of the population in whose service they were labouring had not only never heard of their names, took not the remotest interest in their activities, and were not even conscious under which borough council they were living, or whether, indeed, any borough council existed at all. The attempt to excite some civic interest among this bewildered and apathetic population has been an attempt not entirely unheroic and a little pitiful. There has been no suggestion of corruption, and the councillors, who are elected by a tiny percentage of the population, are probably as vigilant for, and as desirous of the public good as men engaged in similar work outside the night and darkness



of this unimaginable city. But the general impression is drab, perhaps, because the general impression is drab of the Labour cities which these control—Bermondsey, Stepney, Poplar, Islington, and the like. Parliament in its wisdom thus split up the aggregation into cities of the rich and cities of the poor. The rich are too much interested in the life of London Society and the apparatus of National Government to care much about 'gas and sewage' problems. And the poor, to whom 'gas and sewage' problems are vital, find their energies fully occupied in keeping their heads above water, and obtaining a little compensating happiness for the struggle for existence in this enormous 'city of laughter and tears.'

The London County Council is elected every three years in the early spring. The London Borough Councils are elected every three years in the late autumn. In both cases the whole council, except the aldermen, who are appointed for six years, go out of office at the same time, on the Parliamentary rather than the municipal model. Each of them elects, the one a chairman, the other a mayor, from within or outside of its actual membership, who holds office (unless re-elected) for one year only. Between them they split up the various functions of a normal great town council, some being allotted to one, some to the other, and some to a kind of joint consideration of the two. The most important civic function of all, however, the maintenance of law and order, is under the control of neither. Although all the ratepayers contribute to the cost of the Metropolitan Police, the whole control of these police is vested in the Central Government of the country, directed from Scotland Yard, and under the general control of the Secretary of State for Home Affairs, who is responsible to Parliament for their maintenance and efficiency. The object of this difference between London and all other cities is probably that the presence there of the Court, Parliament, and centre of Government, make it essential that the force for the protection of such vital entities should be under

Government control; and that it should not have to go, cap in hand, to a municipality, to plead for essential measures for its protection. The result is a quasi-military body, policing a huge stretch of country, of which London itself is a portion, but all of which contributes to its expenses. It can be used by the Government of the day in any part of the country to suppress disorder, and, indeed, in the past, has frequently been so used, in times of strikes or violence, as an alternative to the importation of the military.

The Central Government also appoints in London the paid magistrates who administer justice, who in other towns are appointed by the town councils. Again, many of the largest parks of London—Hyde Park, St. James's Park, Kensington Gardens—are also neither the property of, nor maintained by, the London County or Borough Councils; but belong to the Crown, and are managed by the Board of Works, by a Minister responsible to Parliament, out of sums granted by Parliament for their upkeep. So that the question, for example, of the degree of clothing demanded of small boys bathing in the Serpentine, in Hyde Park, is settled, not by the representatives of the ratepayers of London, nor even by the Members of Parliament for London, but by a Minister of the Crown, who may represent a constituency three hundred miles from London, whose decision may be challenged in solemn debate in the House of Commons, by any one of the 700 elected representatives of the 'Imperial Parliament.'

Outside these special limitations and organizations, the ordinary work of a provincial borough is divided in London between these two authorities. The County Council, for example, is the exclusive authority for education, and through its education committee, which includes nominated and co-opted members, carries on the training and mental equipment of a gigantic child population. This results in there being one educational rate all over London, covering alike the cities of the rich and the poor. But just outside

the London boundaries, and belonging to the London aggregation there are cities of the rich and poor independent of such unity. So that at one 'East' End, by the docks and river, you have labyrinths of mean streets swarming with children, and with so many poor that the rateable value of the property is low, and therefore you have a huge education rate for outer London districts like Tottenham and East and West Ham. And at the other 'West' End, in districts like Wimbledon or Kingston, you have many fewer houses per acre, and therefore many fewer children to educate; and as at the same time every house is worth far more in value, you have a much lower education rate.

The London County Council is the authority for the tramways, and the Borough Councils are the authorities for the roads and their upkeep, and the result is a most extraordinary apparatus of dislocation, which resulted in London being far more imperfectly supplied with tramway locomotion than any similar civilized town in the world. At first, almost all the schemes by the County Council for tramway extension were invariably blocked by the borough councils, on the plea that their roads were being disturbed, or not sufficiently widened and improved; and even when these two agreed, the private Bills required for tramway extension were almost invariably thrown out by the House of Commons or the House of Lords. London was thus treated differently from any great provincial city, just because it was the capital, and not provincial. The City of London, for example, which is an international centre of business, but has no residents, resolutely determined that tramways should, as far as possible, be forbidden in its boundaries, and the West End of London, which is a large mass of parks and squares, was horrified by the vision of double-decked trams, packed with shabby citizens, reading halfpenny papers, sweeping perpetually through its stately avenues and quiet streets. And the Houses of Parliament itself were for long outraged at the thought

that the trams should come audaciously over Westminster Bridge, and sweep round the Embankment under the shadow of 'Big Ben.' The maps of some of the Bills which have been promoted year after year, or of the recommendations on the subject by Special Commissions, compared with the broken, truncated, and imperfect reality, and compared also with the maps of the tramway systems of the great northern cities, reveal some of the price that the municipal life of London has to pay for being the capital of the Empire.

Again, both the County Council and the Borough Councils are housing authorities. Both have certain overlapping powers to clear slums and to build new houses, and both have more or less used these powers. The results are, perhaps, most successful when combined action is taken. But such combined action is often difficult to effect because each tries to throw the blame of the present and expense of its removal on the other; and so years pass and nothing is done. Whenever there is a prospect of getting a new park established, most complicated negotiations and appeals have to be carried out, to try to obtain subscriptions from private persons, supplemented by the Borough Council and the County Council, the County Council trying to throw the cost on the locality of the people of the neighbourhood, and the Borough Council on to the whole population of London. In consequence of this, no really systematic plan or policy exists for saving great tracts of essential breathing space from the builder, and Greater London has been developing in the most squalid and haphazard fashion, in a manner altogether unworthy of human foresight and intelligence.

The County Council is now erecting a great municipal palace upon the south side of the river, just opposite the Houses of Parliament, in which the sham Classic of the twentieth century challenges the sham Gothic of the nineteenth. And this building will be occupied by hundreds and thousands of laborious officials,

carrying out efficiently and industriously the perpetual work of maintaining the central municipal government of London. But it can never provide anything but a very second best possibility of municipal development until Parliament itself has conceived some ideal of a unified municipal life of this amorphous and swollen labyrinth of people ; combining the greatest centre of trade and commerce, the greatest manufacturing city, the greatest port, and the greatest residential district, with all the complications accompanying the greatest centre of international business and the capital of an Empire which sprawls over the habitable globe. Until that unique problem of municipal life as a whole is boldly faced as a whole, London Government will be carried on in jerry-built or make-shift fashion, under conditions which cannot make for efficiency, and have no elements of finality.



## CHAPTER IX

### THE GOVERNMENT OF THE COUNTRY-SIDE

THE work of the reformers in local government in connexion with the country districts was to 'municipalize' the local authorities. In other words, it was to apply as far as possible the constitution and powers of the new reinvigorated town councils, which were exhibiting so much energy in civic improvement, to the great stretches of territory of the country-side. The work was completed when every county had at least one County Council endowed with certain powers of overlordship over the whole of its allotted region ; when within those counties that region was further broken up into a network of rural district councils where the population was scanty, and urban district councils where the population was thick ; and within those rural district councils again further powers were established of communal action in the parish council and parish meeting.

The county councils are elected once every three years by an electorate similar in the country to that for the boroughs and the towns. The election is held simultaneously, all the members retiring at once ; although they appoint, like the towns, aldermen with a longer period of office. Unlike the system in the towns aldermen may not vote for the new aldermen. The chairman corresponds roughly to the mayor of the town in actual county business, although not in social prestige, in which he is completely overshadowed by such officers as the Lord Lieutenant and High Sheriff. As in the towns, the council mainly works

through committees. And these committees, largely owing to the difference in size of the area dealt with, are given substantially greater independence than in the boroughs. The council itself often does not meet more than four times a year, which it is compelled to do by law, whereas the town council has weekly or fortnightly meetings. Therefore the detailed work is left largely to the committees, and by these committees again largely to the permanent officials.

A county council may appoint as many committees as it pleases, but certain committees have to be appointed by law. It must have a finance committee and an education committee, with members nominated from outside the Council in accordance with a government scheme in each case. And it must appoint half the members of the standing joint committee which manages and controls the county police, the other half being appointed by the Justices of the Peace. In this respect it will be seen the county council possesses less absolute power than the watch committee of the town council, and this provision is probably a survival from the time before the councils were created thirty years ago, when all local county government of this kind was done by the Justices of the Peace in Quarter Sessions. The council levies rates for special purposes, on the recommendation of the finance committee. It is concerned with the provision and upkeep of main roads and bridges, with public health, asylums, the provision of small holdings, with elementary, secondary, and technical education, and with various incidentals of local government, such as contagious cattle diseases, or fishery preservation and river pollution, often in joint committees uniting county councils and other authorities together. It can also promote private Acts, or obtain Provisional Orders for purposes devised for the communal welfare similar to those I have already described promoted by the town councils.

The record of this comparatively newly tried scheme of local life is one both of success and failure. It is of

success in the fact that the scheme is working on what is legally a popularly elected basis, that in the routine work laid upon them the councils are generally efficient, and that there has been little if any suggestion of corruption in administration or appointment. In some great county councils, in practically urbanized areas such as Lancashire or Middlesex, the energy and interest is almost as great as in the surrounding towns. But in the definite country districts it has been a failure in so far as it expected general interest to be aroused in local government, the problems facing it to be discussed outside a very narrow circle, or the councils themselves to be composed of men of all classes of society. This failure is in part due to the natural conditions of the country life of England. It is impossible for any but the wealthy and leisured class to give up the time, and undergo the expense of frequent travel, from long distances away, to the centre of local administration, to serve on council or committee. Nor can any but the comparatively affluent and well-known hope to succeed in obtaining election under conditions where the ordinary apparatus of electioneering stimulus can only with difficulty be brought into play. And in part this is due to artificial conditions, to the steady decay of the rural life of England which extended up to the beginning of the Great War, by which all that was active and ambitious was sucked into the great cities in a process of emigration, which was leaving little outside but the old, the apathetic, and the unenterprising. In so far as there was a return movement, it was of men who had made wealth in those cities, purchasing the estates of the older families, and bringing with them into the country-side, the atmosphere and temper of the town. And these, in the main, had little of that sense of responsibility for county government which was maintained as a tradition among the old landed families, to whom that government has been entrusted for so many centuries.

The result is that for the most part, although the

form of popular election is maintained, the system in essential is little changed from that which prevailed before they were created. It is doubtful, indeed, whether if the old system had been allowed to continue, there might not be to-day more of a mixture of classes in county local government than exists under the appearance of democratic election. For under the older system this government was carried on by Justices of the Peace who were appointed for life by the Lord Chancellor. And when a Liberal Government is in power, a Lord Chancellor, to show his friendly feelings towards other than the rich and landed classes, appoints a certain number of Nonconformists to balance the Established Churchmen, or a certain number of innocuous 'working-men'—aged secretaries of the Ancient Order of Buffaloes or other respectable Thrift Societies—to balance the dominance of the wealthy. One could imagine, therefore, by such a system of nomination, a wise Government creating a body of all classes to administer the local affairs of the country-side. But in the elective system, the landed interest completely dominates. In a great mass of rural constituencies there is no contest at all, and the candidates nominated are returned unopposed. In one election in Norfolk, which is more lively than most counties, in fifty-six electoral districts there were only six contests.

And although in the main this does not seem to lead to inefficiency, for efficiency is guaranteed by officials, and the members of the councils are well-meaning and public spirited, it results in a complete dominance of the ideas which appeal to the landed classes, and in a kind of passive resistance to any attempts of the Central Government to stimulate a policy which is opposed to their tradition. In 1907, for example, the Government laid upon the county councils the duty of providing small holdings for labourers and others who wished to attempt an independent cultivation of land. But the class from which the county councils are drawn do not believe in small



holdings and the independent cultivation of land. The result was that, although in one or two councils where those who desired land were organized, and could bring pressure to bear, such as Norfolk and the Lincolnshire Councils, a considerable number of such small holders were established, in the great majority the results were negligible. And this because the councils deliberately neglected the demand of the Central Government. They all appointed the Small Holdings Committee which the law ordered them to. But it was so easy to do nothing on the ground that there was no effective demand, or that no suitable land could be obtained, or that—in the most serious criticism of all—the policy would involve a charge on the rates, that it was easy to postpone action for months and years, until the war, like the flood, ‘came suddenly and destroyed them all.’ In the same way, although the county councils were given power to build houses in the villages for the labourers, and the conditions of the houses in the villages in many parts of England are a scandal to civilization, practically nothing has been done. For these deplorable cottages were let to the labourers at traditionally non-economic rents, and to build houses at anything like the same rents would have required a subsidy from the rates; and in rural England the rates are regarded as greater enemies than battle, murder, or sudden death. Generally you may say of these county councils that, in so far as they are required to carry out local government in a policy not incongruous with the ideals of the British landed classes, they do their work efficiently and to the general satisfaction. In so far as work is laid upon them hostile to these ideals, they find satisfactory reasons for not doing the work at all.

The Rural District Councils and the Urban District Councils represent lesser authorities within a county council area, on an analogy, similar roughly, although by no means in detail, to the relation between the London County Council and the London Borough Councils which I have already described.



The urban districts represent a kind of borough half grown up. Many of them are in the transition stage of a growing town, between the time when the locality was little more than a scattered group of houses, to the time when it is to receive from the town its character of incorporation, and blossom out into all the pomp and panoply of mayor, corporation, town hall, and chains of office. Some of these councils, especially those plastered round London, are of enormous size, with a greater population than those of most of the great cities. Whereas there are quite a number which are really rural districts, which have less than ten thousand, or even less than three thousand inhabitants. They differ from all the boroughs in the fact that their elections are held in March instead of November; that they are held only once in three years, when all the councillors retire at once; and that they have no aldermen or nominated members. They differ from the larger boroughs in that they are, as it were, fathered by the county councils, who can arrange, on their request, that the election should be for the whole number every three years, or for one third every year (practically all have petitioned for the former), and who also have control of functions which in the big boroughs are controlled by the boroughs themselves.

The important and dominating functions of these urban and rural district councils, is the improvement of public health. They are the legitimate children of the 'Local Boards' in the regions outside the boroughs, which were formed to grapple with the entirely appalling conditions of sanitation and disease in the middle years of nineteenth century England. The urban and rural district councils, therefore, deal mainly with questions of drainage, water supply, infectious diseases, nuisance, lighting, and roads other than certain main traffic roads. Urban district councils with more than twenty thousand inhabitants, are local authorities for elementary education, and are bound to keep efficient all public elementary schools.

They can also issue by-laws and regulations on public health and similar subjects, on the same lines as those I have described being issued by the town municipalities; and they can also, in the same fashion, promote private Bills in Parliament. They work under exactly the same system of a council, of committees, and of a permanent staff, as do the governments of the boroughs. They levy a general district rate, mainly for public health expenses in exactly the same fashion. And this general district rate allows certain exceptions and reductions for such property as railways, canals, etc., which is not allowed in the case of the borough rate. The general district rate will go to pay both in boroughs and districts outside them for the cost of sewerage and drainage, highways and streets, lighting, prevention of nuisances, diseases, provision of parks and cemeteries, baths and wash-houses, public libraries, and any deficit incurred in the provision of houses for the working classes.

You must look on these urban councils, therefore, as in very much the same position as the councils of the small boroughs, though rather more under the control of the Central Government, by whom their accounts are audited by independent auditors, appointed by the Ministry of Health. They are made up of the same varied selection of different classes as are the boroughs of the councils.

When they consist of densely populated working-class districts, representative working men are often returned. In others, professional men, lawyers, local manufacturers, shop-keepers, or business leaders form the bulk of the local councils. The elections are often fought as are the town council elections on so-called party lines, and those who are returned have to profess allegiance to one of the recognized parties, Conservative, Liberal, or Labour. They do not, however, as in Parliament, vote by party as a rule, but carry on the work of administration to the best of their ability in amicable work on committees, in which party is left outside the door.

It has been stated in rough definition that, while the county councils are bodies of land owners, the rural district councils are bodies of farmers.

In the urban district council areas the Poor Law Guardians exist, administering the Poor Law quite separate from them, and chosen in a different election. In the country districts the rural district council are the Guardians under another name, and administer both the Public Health Acts and the Poor Law. Technically they are distinct, although their chairman, members, and officials are the same, and they meet on the same day, first as Rural District Councillors and then as Guardians.

Very little interest is taken in these rural councils. No social or professional advantage is given by membership of them, and in most cases it is far more difficult to find efficient candidates than to find vacancies for them. At the Central Authority they were rather more in favour than the county councils, because more completely under control, with less Parliamentary influence; with none of the independence, and little of the truculence of the councils representing the big landed proprietors; who could bring, and often did bring, pressure to bear on the Government to make it reverse the actions of its officials. Their chief work is concerned with water, nuisances, drainage and disease, housing, etc., and they also deal with the roads which are not main roads, besides often themselves, repairing and maintaining the main roads at the cost of the county council, which pays them for the job. They can expand if they please in the provision of allotments and houses, although very few of them have done so. Their chief characteristic is a vigilant determination, at almost any cost of possible improvement, to keep down the rates which the farmers think they pay, and which undoubtedly, in so far as they own their land, they do pay. They have none of the historic tradition, or ancient and picturesque clothing and customs of the little boroughs. Many of them, in addition to the farmers, carry an enormous number of builders, and

charges, whether rightly or wrongly, have been brought against them that in the past they have adopted and enforced in the country, by-laws which are only necessary for protection against fire or disease in the towns; as, for example, the prohibition of wooden houses; and that they did this in order to advantage the building trade. However these things may be, it is undoubtedly the fact that their work is carried on with no local interest and little local pride, and that no man's heart has been caused to beat more speedily because he has been introduced to a rural district councillor.

And if these rural councils have failed to arouse the vigour desired by their creators, still more lamentable has been the collapse of the attempt to revive the parish as an area of local government. You can look back through the long past into the distant time centuries before the coming of the railways, the post, and the telegraph, when the parish was the whole centre of the life of England. The village church, which still survives, was at once the home of its religion, and the centre of its government. The beauty of its architecture, and the splendour of its artistic possession, as revealed even by the inventories which Dr. Jessop has described in the days before the great pillage, exhibit a craftsmanship, a pride in labour, and an originality and variety of talent and even genius, revealed in a people who could neither read nor write, enduring a condition of discomfort which to-day the most remote and backward village would refuse for a moment to tolerate. The parish, as I have said, provided a rate for the maintenance of the priest and its services, and later laid upon it the burden of maintaining its own poor. But with separation of religious from civil life, the merging of parishes in Unions, the great emigration from the villages to the towns, and the decay which fell upon those villages when they were deserted by everything that was vigorous and alive, the parish, as a self-conscious entity of government practically ceased to exist. The attempt to



revive it thirty years ago came a century too late. It was found in the majority of cases there was nothing left to revive. Powers given to the Parish Councils were rigidly limited, and the majority of the parishes have taken no trouble to use them at all. Of over twelve thousand rural parishes, it would be difficult to select to-day a hundred parish councils which exhibit any really active local life, excite interest among the electors, or effectually put into force the various measures which they are allowed to do by law for the benefit of the neighbourhood.

Parishes with less than three hundred inhabitants may be content with a parish meeting once a year, at which all the electors can attend and come to decisions concerning their welfare. Every parish of over three hundred inhabitants is by law compelled to elect a parish council. The annual assembly of the parish meeting must be held at a date in March, and in the evening, in order that the labourers may be able to attend. It consists of every man and woman who is on the register. Every elector has a vote, and every question is decided by a majority on a show of hands, unless a poll is demanded. The parish council consists of from five to fifteen members, elected every three years by the parish meeting, or if a poll is demanded, by a poll. By Statute, four meetings at least have to be held every year. The parish councils are given various powers transferred from the old vestries, of which the most important is the appointment of the overseers of the poor, an official whose chief function to-day is to transfer as much of the rate as he can to other parishes, and to protect his own. It also deals with the village green, with the maintenance of allotments, with the village pond, and village wells and streams. And it may complain about the lack of energy in its parish, on public health, of the rural district council. It may protect public rights of way, and undertake the maintenance of footpaths, though this power is limited by the very small amount of money it is able



to raise. Its chief power is in the provision of allotments, i.e. the obtaining by lease or purchase of parcels of land which can be let out to labourers and others of the district at a moderate price, and which these can then cultivate with more or less success. The few parish councils which have shown any activity at all, have shown it mainly in this direction, where some local clergyman, or reforming farmer, has been able to excite enthusiasm, real if sometimes transitory, for the obtaining of land for the local inhabitants to cultivate.

But the powers of obtaining a rate, or of borrowing money, are so rigidly limited, that it is almost impossible for the parish council to embark upon any substantial business. It both fails to attract men to its service, and has no men to be attracted. Text-books of foreign and interested observers give elaborate description of all the provisions for active rural life, set out in a long array of clauses and orders; and imagine a rural England as vigorous as the communes of prosperous, land-owning peasants with which all Europe was familiar before the ruin of war. Personal investigation of the ordinary British village would reveal a class of landless labourers, working for other men on a weekly wage system, some of whom desire land, but have not the slightest idea how to get it; others of whom have no such desire, and acquiesce in a life carried on without it. From all such villages so composed those boys and girls who possess vigour and ambition depart on attaining maturity for the towns and beyond the seas; with a determination that, whatever vicissitudes of fortune they may endure, they will never return to the English country-side.

## CHAPTER X

### THE GUARDIANS OF THE POOR

**B**EHIND and apart from all these local authorities, stands the apparatus for the guardianship of the poorest from starvation, which spreads alike through town and country. It inherits directly from the oldest unit of universal government—the parish, as endowed with powers and duties by the Elizabethan Poor Law. The somewhat squalid nature of the present is in part redeemed by its great past and the ‘Christian Socialism’ of its original conception.

This is the simplest and most clean-cut in function. The ‘Guardians of the Poor’ have one function, and one only (apart from lesser items, such as dealing with vaccination, which are unimportant)—that is to administer the Poor Law under the rigorous control of the Central Authority whose name has been changed recently from that of Local Government Board to that of Ministry of Health. They are elected for a term of three years, at elections held specially for the purpose on the widest possible franchise, and their qualifications are merely a place on the voters’ roll, or residence within the area of the Union. Their election evokes, generally, no kind of interest, and only a small percentage of the electors take the trouble to vote at all. Their function is to deal in various ways appropriate to the various ages, sexes, and conditions, with those classes which, for some reason or other, have fallen through the bottom of the ordinary industrial machine, and whose only other alternatives are charity or starvation. They are not allowed to give

grants of money or of food and other necessities of life to the able-bodied male poor. But they can gather these together into great blocks of buildings called workhouses; in which they are supposed to do work, and supposed to be fed, but on a scale less attractive than any attainable by any persons who are doing remunerative work outside. It is their duty also to provide for temporary accommodation for penniless persons who are moving from place to place, and who have no other food or lodging for the night. This they do in what are called casual wards, at which no applicant can be legally refused; although he can be compelled, in return for such food and shelter as is given him, to perform a certain amount of forced labour before he is allowed to go free on the following day. They can provide what is called outdoor relief, that is, definite doles of money or food or clothes, to any who are supposed to be not able-bodied; including women whose husbands are dead, and who cannot find work, or who have children to support. They have the duty laid on them of caring for the poor who are sick or injured, and of equipping and maintaining infirmaries in which such persons can be treated until they die, or are made well again.

And they are supposed to extort from the relatives of these persons and of lunatics who are supported by the State such sums as they can be expected to pay towards the cost of supporting the sick and injured poor. They are also charged with making provision for children who have been left orphans, or without support. And they have attempted to do this in a variety of ways, all of which have been strongly criticized: by barrack-schools, by communities of children in villages built for the purpose, by scattered homes in which little groups of children are put under the charge of a matron, by boarding out children in private families who are willing to take these unfortunate children of the State in return for a small weekly payment. And for these, also, they attempt to extort sums towards their mainten-

ance from any relatives with a legal obligation to support them.

All this work requires large expenditure of money, and there is practically little received in return. For the money extorted for maintenance in infirmaries or for the support of children is almost negligible in proportion to the cost. And though able-bodied men are supposed to work in workhouses and casual wards, and the products of their labour can be sold, as a matter of fact such work as is done by them is far more a test of unpleasantness than a means of obtaining money. The overwhelming bulk of the income, therefore, has to come from the Poor Rate, that is, a levy of so much in the pound varying in proportion to the amount required from year to year, imposed by the overseers upon the value of the land and property of the Union, in proportion to the value which they themselves have put upon it.<sup>1</sup>

A Board of Guardians changes completely every three years unless old members are re-elected. Its membership may consist of both men and women. It elects a chairman from among its members, and it usually divides its work among a series of committees, each of which takes up detailed consideration and control of one of its activities. The whole Board will meet at intervals under the chairman, and will have before it detailed accounts (called minutes) of what each committee has decided upon the particular points which have come before it since the last meeting of the Board. These reports are either passed, that is to say, accepted without question, or challenged by some members of the Board, in which case a debate occurs, and perhaps a division, and the Board may endorse the decisions of the committee, or send them back for further consideration, or even decide in a manner contrary to the way the committee had decided. Whatever their decision, it is final, unless challenged by the Ministry of Health as outside the

<sup>1</sup> As I have said above, this Poor Rate and its assessment has come to be the foundation of the other local rating.

law under which they are working ; in which case disputes and controversies may arise between the Central and the Local Authority. But apart from this the Board as a whole incorporates without detailed examination the decisions of its committee, and thus carries out the system of government by committees which is characteristic of all British local government.

An active Board of Guardians will thus have probably a Finance Committee to deal with the question of money, one or more Workhouse Committees to carry on the detailed work of the supervision of workhouses and casual wards, an Infirmary Committee similarly to supervise the infirmary, a Relief Committee to examine one by one individual applicants for outdoor relief, to investigate their stories of poverty, and to decide how much or how little can rightly be granted to them ; and a Children's Committee to deal with the treatment of each separate child who has become one of the children of the State.

All these are dealing with human problems requiring alike intelligence and compassion, and of importance not only to the happiness of numbers of forlorn and battered people, but also of the whole economic condition of the State which has undertaken the support of successive generations of these unfortunates. You would think, therefore, that the work would attract men and women of exceptional capacity, animated by the desire to mitigate human misery, and to exercise the work of restoration and improvement. Facts, however, are largely otherwise. The work is done amid dingy surroundings, and carries with it none of the distinction, even in outward display, which is still associated with a Mayor, Aldermen, and Town Councillors. The Guardians have to administer a law which, as transformed in 1834, whether rightly or wrongly, was designed to be penal rather than reformative. And they are rigidly limited in any variation from penal towards reformative elements by the vigilant watch and control of the Central Authority. No bodies of elected persons



possess less independence or power of initiative ; and the orders which have been issued with bewildering frequency by the Local Government Board, and are now collected into many stout volumes, command, to the remote details of diet or permitted recreation, what may or may not be done with the persons who have fallen into their clutches or evoked their aid. The dominating influence, especially in the country districts, where the Guardians are mostly farmers, and elected by farmers, is that of keeping down the irritating burden of the Poor Rate, and cutting expenses to the bone. In other cases, where kindness rather than intelligence has created a liberal expenditure, the results have shown no advantage in human welfare and happiness proportional to the money that has been thrown away.

It would seem, indeed, that the Guardians as a whole are faced with an impossible problem. Among the poor themselves, their work has from the first been hated. Their workhouses were denounced as 'Bastilles' on their erection. The very condition of their administration is to make the life of those who seek their succour so unpleasant as to drive these out again from State support into work outside. The workhouses are choked with a squalid crowd of vacant, half-witted, languid, or work-hating persons, and those who happen to enter through misfortune, and who have normal minds, very rarely escape the infection of the mass. Even the children, for whom there would appear to be most hope, are mainly below the average in physical and mental development, and many of them drift into unsatisfactory and low paid occupations when they vanish from the care of the State. Definitive amelioration and reformatory work is largely left to the work of religious and charitable bodies outside. And it is in these, rather than under the dull, heavy, and penal limitation of the Poor Law that most men and women turn who are inspired by a real passion to assist the 'under-dog.' Nothing has been generally introduced into the Government

system similar to that, for example, of the famous German Elberfeldt System before the war, in which responsibility was undertaken for an attempt to restore each single individual by suitable individual treatment, to the position of a free, self-respecting citizen. Ten years ago a Royal Commission, divided in the nature of the reforms advocated, unanimously condemned the results of the British Poor Law and its administration. And it is in a system thus condemned that those Guardians who are manfully striving to carry out public duty, are now attempting the difficult work assigned to them.

PART III

LAW AND JUSTICE



## CHAPTER XI

### THE LOW JUSTICE

THE various Courts of Justice operating throughout the country have this in common : that it is perfectly possible for the ordinary citizen to pass through his whole life and never go inside one of them. Indeed, this is probably the condition of the majority of mankind ; that neither as witness, litigant, or jurymen have they ever entered a Law Court. This is the more curious because, in theory, the panel from which jurors are chosen is supposed to cover the whole body of citizens, including women. In practice, however, it is limited in a number of directions.

The different Courts or Sessions are graded according to the importance of the case with which they have to deal. In criminal matters, beginning with the lowest, the gamut runs through Petty Sessions, Quarter Sessions, High Court, Court of Criminal Appeal. Civil disputes between private citizens are tried at the County Court, Divisional Courts, the High Court, or the Court of Appeal. Supreme above all other Courts, and able to hear appeals from all, is the tribunal of the House of Lords, consisting of the Lord Chancellor, the Lord Chief Justice, ex-Lord Chancellors, and eminent peers holding life peerages only and known as Law Lords. Here appeals end ; chiefly because they must end somewhere. There are, besides, two other divisions of the High Court : the Court of Chancery, dealing with a quality of case to which the public usually pays very little attention ; and the Court of



Probate, Divorce, and Admiralty. There is in addition the Bankruptcy Court. There are also special Commissions dealing with railways and canals.

The Courts with which the ordinary citizen is most likely to become acquainted are probably the Courts of 'Petty Sessions' or 'Summary Jurisdiction.' Here is brought for trial any one who commits a 'minor offence,' such as forgetting to take out a dog licence, or riding a bicycle without a light after dark, or being drunk and disorderly in the street. All violation of 'by-laws,' for which small fines are imposed, are tried before the Courts. There is no known principle or phrase capable of describing or uniting its functions, and an alphabetical list of its duties is the only way of covering them. One list, admittedly incomplete, begins: Apprentices, Assaults, Bake-houses, Bastardy, Bicycles, Birds (Wild), By-laws, Canal-boats, Children, Chimney Sweeps, Clubs, Dogs, Education, and so on. The only element in common is that the case should be small or 'petty.' For it is the inalienable right of every British subject accused of a serious offence (i.e. one punishable by imprisonment for more than six months) to be tried by a jury if he wishes, and Petty Sessions has no jury. Certain more serious crimes, when the accused can claim trial by jury, can, however, if the accused is willing, be dealt with in Petty Sessions, and often are.

Here also comes, for preliminary hearing, the cases of serious crime which are beyond the jurisdiction of the Court, for the Court to decide whether there is a *prima facie* case, that is, enough evidence against the prisoner to make it necessary for him to be tried. This examination is ordered by the Act of Habeas Corpus, one of the oldest provisions of the law, designed to prevent imprisonment without trial. It decrees that any person arrested must be brought before a justice 'as soon as may be' and the crime stated for which he has been arrested. This preliminary hearing or examination is not the same thing as a trial, because the Court of Summary Jurisdiction

has in these cases no power to try the case or to sentence the prisoner. If the Court should dismiss the case and refuse to send it for trial on the ground of insufficient evidence, and more evidence be obtained later, the prisoner may be arrested again for the same offence. This could not happen if he had been brought before a Court capable of trying and sentencing him, because 'no man may be put in peril twice for the same cause,' and dismissal by that Court is final. In Petty Sessions he is not 'in peril.' In practice, the amount of evidence necessary for a *prima facie* case is so slight that such a release and re-arrest is extremely unlikely.

In London and many large towns the Courts of Summary Jurisdiction are presided over by a 'Stipendiary Magistrate,' that is, a barrister appointed by the Home Office and paid a salary to devote himself entirely to this work. He sits alone and without a jury. Many stipendiaries, in addition to the work of trying cases, devote a short time before the Court opens to giving free legal advice to any members of the general public who may come to ask it; usually a pitiable, harassed, and bewildered company of very poor people, to whom he supplies the only kind of legal advice open to them.

But over the greater part of the country the Courts of Petty Sessions are presided over by Justices of the Peace (more familiar under the well-known initials J.P.). The office of a Justice of the Peace derives from that of the Sheriff, a very old office, probably dating back to the very early days of history. A Proclamation in 1195 first appointed the justices to keep the peace only; later they acquired other functions. The institution is quite unique. No other country has anything like it. A Stipendiary Magistrate is paid, and is supposed to know the law. A Justice of the Peace is unpaid, and knowledge of the law is not required of him (or her, women now being entitled to become J.P.) on appointment. It is true that the Home Office has issued some very admirable

circulars of advice for his instruction, but there is no compulsion on him to read them. The legal qualifications for the office are technically chiefly of a negative kind. There used to be a property qualification, but it is gone. A Justice of the Peace must not be a bankrupt, or have been convicted of a serious crime, or practise as a solicitor within the same county. Otherwise almost any one is eligible to become a Justice of the Peace.

Justices of the Peace of the boroughs are appointed for life by the Lord Chancellor on the advice of a Committee. Justices of the Peace of the county are appointed by the Lord Chancellor usually on the advice of the Lord Lieutenant. In Lancashire appointments are made by the Chancellor of the Duchy, an office usually held by a member of the Cabinet. The Mayor of a borough is ex-officio Chairman of the Justices of the Peace during his term of office and a member of the Bench for a year afterwards. And certain other public offices, such as membership of the Privy Council, carry with them the privileges of a Justice of the Peace.

In practice the position is considered to be one of such local credit and honour that in the country districts at least there is but little change from the boastings of Mr. Justice Shallow—'a poor esquire of this county, and one of the king's justices of the peace'—to his old friend Falstaff that he has attained a standard of respectability remote from the time when they together occupied Clement's Inn and heard the chimes at midnight, and lay all night in the windmill in St. George's Fields. The Lord Chancellor and his advisory committees look round for a certain type of person. If on the county bench, he is likely to be a person owning tracts of land, having a stake in the country, or being a member of a historic family. If in the town he should be a prominent citizen respected by all, of unimpeachable private life; who has subscribed to hospitals, and made money, and shown himself a good citizen. Attempts are made to

keep the balance between the political parties, and even Labour men are now appointed Justices of the Peace, so long as they are of the moderate sort, of middle age, secretaries of Trade Unions or Friendly Societies, 'anti-Bolshevik,' and obviously loyal to King and Country. And the landed and wealthy classes welcome these additions to their numbers, and are very pleased to patronize with kindness poor men who are raised to this distinction. For the Justice of the Peace is not merely a voluntary administrator of Justice. He is a man distinguished from his fellows for respectability, sobriety, wealth, attainment. And for every one who is appointed there are scores or hundreds of others who think they have more right than that one, and who each make miserable the lives of their Members of Parliament by persuading all their friends to write to him to put forward his claims for the next appointment to administer the Low Justice in his district.

At first sight it would seem that justice administered by a Court of unpaid amateurs would be chaos and confusion. As a matter of fact it works fairly well. In the first place every Court is provided with a clerk, a solicitor, who is neither unpaid nor amateur, and whose function is to keep the Bench straight in matters of law. Also most men appointed to a judicial position would try to be fair to the best of their capacity; most can learn by experience; and the bulk of the cases brought before J.P.'s in Petty Sessions are simple, and in only a small number are the facts obscure.

The criticisms against such tribunals are not as a rule directed against their verdicts. It is true that there is, or was, in existence a pair of brothers, labourers, in a country village, who bore a close resemblance to each other, and who were wont to boast that the elder brother had been convicted of poaching by the local Bench some twenty times for offences committed by the younger, and the younger some twenty-five times for offences committed by the elder. Both brothers cheerfully admitted having



been rightfully convicted of poaching a dozen or two times apiece. They were, in fact, impenitent and incurable poachers. But such a problem might have perplexed the most learned Court in the land. It is, however, notorious that Justices of the Peace do exhibit eccentricities of moral indignation. The individual brought up for poaching before some Benches, or for furiously driving a motor before others, is an unusually unfortunate person. And in many cases action by a 'Bench' of magistrates with regard to juvenile criminals has been deplorably behind the practice of the stipendiaries and of average public opinion elsewhere. Over a large part of the kingdom, for example, the powers given by the Probation of Offenders Act have hardly been used.

Coke, in his famous assertion, declared of the Justices that 'the whole Christian world hath not the like office, if truly executed.'

For many years a prominent newspaper once filled two parallel columns every week, one with the record of sentences for crimes obviously too heavy, contrasted with a column of sentences obviously too light. On first examination it seems incredible that ordinary citizens, mixing with their neighbours in freedom and indiscretion one day, should on another be dressed up with a little brief authority and be allowed to inflict punishment on these same neighbours with all the majesty of the law. All the old administrative powers they once possessed have been taken from them. But this remains. And it is doubtful if there is any substantial demand for substituting either the popularly elected judges of the United States, or the universal appointment of whole-time officials.

Shakespeare, perhaps with some recollection of early indignation, can pillory the action by which conscription was enforced in the house of Mr. Justice Shallow. But it is doubtful if in that immortal scene in Gloucestershire there was any substantial variation in justice or injustice in the compulsory recruitment of Falstaff's ragged army from the method



of the rural 'competent military tribunal' which replaced the Justice of the Peace in executing such service in England's recent war.

The fact is that the administration of punishment for petty crimes, of which so many are committed day by day, is a function for which the provision of High Court Judges would be the provision of a steam hammer to break a nut. The choice is really between such justices as these magistrates, nominated and either voluntary or paid, and some elected 'judges' appointed on the American State system. The former appears to be more congruous to 'this old England,' and certainly performs judicial functions with as much common-sense justice as would be available from any elected or nominated Committee. The old objection—that these were all appointed from one class, the owners of land—has largely passed away. And the base opening of the door to men of all occupations and women has caused the former criticism to disappear.

Quarter Sessions is a periodical meeting of the Justices of the Peace of the county. They try persons accused of a confused variety of offences considered too difficult for a pair of Justices of the Peace to try in Petty Sessions, but not sufficiently serious to be punishable by penal servitude. In certain districts the Recorder, a paid official, who must be a barrister, exercises the same functions as Quarter Sessions. Prisoners accused of any serious crime have a right to claim trial by jury, and for these cases juries may be called at Quarter Sessions. Another function of Quarter Sessions is to hear appeals from Petty Sessions. With regard to this point some criticism might be made. In theory any two Justices of the Peace constitute a quorum. Two Justices of the Peace are also necessary to form a Court for Petty Sessions, except when trying a short list of offences which includes lotteries and cases of absconding paupers, when the lonely intellect of a single Justice is considered adequate. It is, therefore, conceivable that a prisoner appealing from Petty Sessions to

Quarter Sessions might find his appeal was being tried by the same two Justices as pronounced the first sentence against which he is appealing. It is not likely, because, as a rule, attendance at Quarter Sessions is exemplary, but it does happen quite often that the two Justices who tried the original case sit as part of this Court of Appeal, a result which is obviously undesirable. One Yorkshire Bench appointed certain of its members to do appeal work only; a rather obvious reform, that might well become universal. A more serious barrier to appeals is the fact that an appeal to Quarter Sessions costs £20; which simply means that for the bulk of prisoners and suitors there is no appeal at all. When, therefore, the small number of appeals are brought forward as proof of the complete satisfaction of every one with the verdicts and sentences of Petty Sessions, these facts have to be remembered on the other side.

Quarter Sessions in the main try only criminal cases, except for a few matters connected with licensing, rating, lunatics, and some small points of local government. County Courts try the civil cases which may be held to be of much the same importance as criminal cases tried by Quarter Sessions. The sum involved must not exceed £100, and when it exceeds £5 the litigants have a right to claim a jury. In a certain number of cases, where the sum involved is not more than £500, the County Court has the same powers as the High Court. All the litter of petty debts to tradesmen, over-due rent, servants suing for some fragment of wages they believe to be due to them, and such small matters, come before the County Court. The County Court is also a Court of Bankruptcy for the provinces. Cases of bankruptcy in London and the County of Middlesex come before the Bankruptcy Court. The County Court judge is a salaried official who must be a barrister. He has no criminal powers except to send people to prison for non-payment of debt. There is an appeal from his decisions to the High Court.

## CHAPTER XII

### THE HIGH JUSTICE

THE High Court consists of a Lord Chief Justice and Judges of the King's Bench ; of the Court of Chancery ; and the Court of Probate, Divorce, and Admiralty. It sits in London at the Law Courts, in Fleet Street. But Judges of the King's Bench go about the country ' on circuit ' to try cases in the provinces. These sessions are known as the Assizes, and are accompanied by a good deal of ceremony and formality. A Judge of the High Court is appointed for life. He can only be removed from his position by the unanimous vote of Parliament (a thing which has only occurred once, and is unlikely to occur again). No sort of threat or pressure can be used against him for any decision he may pronounce unless he wrongfully refuses a Writ of Habeas Corpus, when he is liable to a fine. He may impose any penalty permitted by the law, including the death sentence, and try any number of civil cases of almost any degree of importance. One Judge of the High Court sitting either in London or at the Assizes in the country deals with all the serious crimes, including murder, and invariably sits with a jury.

The present immune and dignified position of judges has been built up gradually through history. The early Sovereigns had no hesitation in dismissing or imprisoning judges whose decisions were displeasing to them ; and parliamentary governments who succeeded the kings in power were not backward in doing the same. The Petition of Right first established their

permanent appointment, to the great advantage of their dignity and independence.

A prisoner brought before the High Court has invariably had his case sifted twice, once by Petty Sessions, and once again by the Grand Jury, a specially selected body of jurymen, who go through the cases of prisoners sent for trial and reject those where they consider the evidence insufficient for a prosecution. The sifting by 'Grand Jury,' however, is little more than a formality, and the institution, which is something of an anachronism, would probably be better dead. This passing through a double sieve tells against the prisoner perhaps more than it should; for the magistrate requires very little evidence for a *prima facie* case and Grand Juries are not usually very critical. In the case of murder the prisoner may have been before a third Court, namely a Coroner's Inquest.

In all trials the function of the judge is to see that no irrelevant evidence is given and no bullying or misleading of witnesses is allowed; to sum up the evidence for the instruction of the jury, pointing out what inconsistencies there are, and expressing sometimes his opinion as to the character of the witnesses; and to pronounce sentence after the jury have decided the verdict of Guilty or Not Guilty, which is their function and responsibility. There is one appeal on criminal matters from a Judge of the High Court to the Court of Criminal Appeal which consists of three Judges of the High Court sitting without a jury. This Court can either reduce or increase a sentence, and can hear fresh evidence. It can quash a verdict on a point of law or procedure or on the grounds that the judge has misdirected the jury, or that the verdict is against the weight of evidence. In Scotland and in Ireland there is no Court of Criminal Appeal and in England it is a comparatively modern institution. One limitation of its powers is worth noticing; it cannot order a new trial.

This limitation is interesting because it is based on



that same principle that runs throughout the entire criminal law, namely, 'no man may be put in peril twice for the same cause.' It is a curious fact that whereas if fresh evidence comes up, the Court of Criminal Appeal may revise a verdict of guilty and cancel a sentence even after an interval of years,<sup>1</sup> no acquittal can be reversed, even if conclusive evidence of the guilt of the prisoner comes to light within a few days of his release. There have been several cases where the trial of a prisoner admittedly and obviously guilty has been irregular in some small point ; such as that a previous conviction has been mentioned during the trial. Such a trial is invalid and the sentence pronounced also invalid, so the prisoner is released. But he has been put in peril nevertheless, and can therefore not be tried again. In short, acquittal is final and conviction not invariably so.

To explain the present position of the Court of Chancery and Law of Equity, a little historical explanation is necessary. Common Law, which includes Criminal Law, is the basis and main structure of all the law in England. Statute Law and Equity are both of later date and built on to it. Common Law is founded on 'Use and wont,' i.e. precedent. There has never been a time in recorded legal history when the pre-existence of Common Law has not been

<sup>1</sup> One of the most curious cases of a belated vindication of Justice through the Court of Criminal Appeal came to my attention when I was at the Home Office. A prisoner in a remote part of the country had been sentenced to a long term of penal servitude for an offence against a woman. Some years afterwards evidence was discovered which put a different complexion on the whole affair. The man appealed to the Crown for a free pardon. But we referred the case to the Court of Criminal Appeal, which, in the light of the new evidence, quashed the sentence, and the man was set free. This was the first case, I think, in which this Court was used to effect justice on evidence taken years after the sentence.

In the case of Adolf Beck, who was declared innocent long after he had suffered imprisonment, all that could be done was for the Crown to give him a free pardon, which is, of course, different to the revision of the verdict by a Court of Law.



assumed and acted on, even though it may be added to and altered. There is, for example, no law forbidding murder or compelling the payment of debts. The Statute Law merely defines murder and the penalty, or what shall be held as the evidence of a debt having been incurred. All Law Courts and Judges were originally Deputies of the King and are so in theory to-day. The buildings familiarly known as the Law Courts are headed on their note-paper 'the Royal Courts of Justice.'

But as the Common Law with its body of precedents and rule or procedure grew more complicated and rigid, and commerce and business also developed, the practice of Common Law was found too narrow to deal with a large number of cases. To take a common example, if an injury was proved, all that the Common Law could do was to order the offender to pay damages, which in a large number of cases was a quite inadequate remedy. There grew up, therefore, the custom of appealing to the King, to give a remedy outside the existing law and according to 'natural law and equity.' Such appeals the King was accustomed to hand over to the Lord Chancellor to deal with; the Court dealing with them became known as the Court of Chancery; and the theory and rules under which it carried on its work, the Laws of Equity. (For needless to say the theory of an unfettered natural law did not last very long.)

Its particular powers which it possessed, and which were not possessed by the Common Law were the power to enforce specific performance, i.e. to compel people to do things they had promised to do; to issue an injunction, i.e. an order to compel people to abstain from doing things they had promised to abstain from doing. A large part of its work was connected with estates administered by one person on behalf of another, a condition of affairs not recognized by Common Law.

Of the century-long battles of the Court of Chancery with the Courts of Common Law for supremacy in jurisdiction, and the sole right to deal with certain

branches of business, this is not the place to speak. It suffices to say that by the middle of the nineteenth century that conflict had involved both Courts in unfathomable complications of procedure and the helpless litigant in incalculable expense. Only while the 'law's delay' in the common Law Courts was a proverb, the delays of the Court of Chancery were of the impressiveness of a legend, but a legend with a fairly solid foundation; in such a fact, for example, as Lord Eldon reserving judgment on a case for ten years. It is to this period that the satires of Dickens most particularly apply. One of the commonest grievances of the public was that it was often necessary to bring two cases on the same matter, one in the common Law Courts to prove the injury and another in the Court of Chancery to obtain a remedy. At last, in the Judicature Acts of 1873-75, part of the great cycle of administrative reforms which form perhaps one of the most lasting claims of the Victorian era on the gratitude of subsequent generations, the four self-contained and 'watertight' Courts of previous generations were abolished. A single High Court of Justice was established with three branches, King's Bench, Chancery, and Probate, Divorce, and Admiralty. Any Judge of the High Court could sit in any one of the three courts. Further the Court of Chancery acquired all the powers of a Common Law Court; and it became possible to invoke the Laws of Equity in the Court of the King's Bench. Thus the Court of Chancery became chiefly distinguished from the other Courts by the kind of cases with which it dealt. These are defined by the Judicature Acts. Administration of the Estates of deceased persons, the dissolution of partnerships, the taking of partnerships or other accounts, redemption and foreclosing of mortgages, raising of portions or other charges upon land, the sale and distribution of the proceeds of sale of any property subject to any lien or charge, the execution of trusts, charitable or private, the rectification or setting aside or cancellation of wills or other written instruments, the specific

performance of contracts between vendors and purchasers of real estate, including contracts for leases, the wardship of infants and the care of the estates of infants are the types of cases dealt with in this Court.

The theory of a jury is that out of the general heap of population a handful of ordinary citizens should be gathered at random to hear the evidence and decide the case. In its origin the jury had no adjudicating functions at all. They were merely twelve good men and true called in by accuser or accused to swear on their oath that the person was either innocent or guilty.

England is the place of origin of trial by jury, and it is a typically English institution. The Englishman all down his history has shown a rooted mistrust of professional persons. The highly-trained Civil Service is subordinate to a Secretary of State and a Parliament of amateurs. Judges in criminal cases have to have juries. Most of the experts in charge of different departments of public life are subject to a lay watch dog or superintendent of some kind or other. In the days when judges were appointed by the King and removable at his pleasure, the presence of this compact body of anonymous citizens associated with the verdict added considerably to judicial independence.

In theory, as has been said, jurymen are supposed to be a random collection of ordinary people. In the case of a coroner's jury this is more or less so. But in the case of a petty or ordinary jury (petty in distinction to the grand juries mentioned elsewhere) there is a property test high enough to exclude the ordinary labourer, and an age limit. Certain professions are excluded also, such as officers in the army or navy, sea captains, servants of the crown in other capacities, peers, doctors, members of the bar, and any one who is a J.P. A special jury, which litigants are obliged to have in civil cases, where the sum involved is over a limited amount, are jurymen with a slightly higher property qualification; an arrangement which has the

odd result that in certain places, notably parts of London, a very high proportion of the special jurymen are licensed victuallers. Apart from these exceptions the jury lists, which may now include women, are printed alphabetically, and at assize time a collection of inconspicuous people whose names begin with contiguous letters assemble at the Court and are empanelled to hear the different cases. It may be a murder case of a sensational kind in which the entire country is taking a breathless interest. It may be a long and highly technical case of fraud. In the summoning of the persons liable to serve, the text 'many are called but few are chosen' is obeyed very literally. The individual may find himself doing nothing more interesting than waiting about on the chance he may be wanted for hours or even days, and be told in the end his services are not required but that he is still liable to serve at the next assizes.

A litigant or a prisoner or the counsel for the Crown may object to any member or all the members of a jury without giving any reason, in which case the juror so challenged has to go and some one else takes his place. Once the twelve jurymen have been sworn, they may not leave the Court or the charge of the officials to whom they are handed over. They are not allowed to speak to any one outside or to any of the witnesses; and if a jurymen should do so the trial will be stopped, the entire jury dismissed, a fresh jury called, and the whole trial begun again. The idea is that the jury are not to hear anything about the case except what is said before them on oath. To attempt to influence or threaten a member of a jury is contempt of Court and may be punished with imprisonment.

And in the hands of this undistinguished body of men the decision of the most complicated cases involving the evidence of technical experts, or the honour of famous men, or the liberty or life of an accused person, is laid. A jury in England has not the same powers as in France, where crimes and penalties are elaborately graduated and the precise grade of offence of which



the prisoner is found guilty determines his sentence. In England this is left almost entirely to the judge. But what the old books call 'the deadly stroke' of Guilty or Not Guilty (the only two alternatives allowed in criminal cases in England) is in the hands of the jury.

The Coroner is a survival from the days before centralized government. The method by which he is appointed vary from place to place. Some Coroners are appointed by the Crown. Some are appointed by people who have inherited or purchased the 'franchise' or power of appointment. Some, possessing the franchise, have appointed themselves. There is no uniform standard of professional attainments, so that it is hardly surprising if coroners vary widely in ability, and Shakespeare's gibe at 'Crowner's quest law' has not altogether lost its sting.

The function of the Coroner at the present day is to inquire into the causes of sudden death; where the deceased has not been seen by a doctor within a week, or where the doctor asks for it, or when a person is found dead or dies in a public institution. The main object of course is to detect immediately if a murder has been committed, or if there is any neglect of public duty which results in accidents. Coroners are assisted by a jury, which may consist of more than twelve persons and of whom twelve at least must be agreed on the verdict. The verdicts are of almost unlimited variety, and there exists in one of the public offices a list of 'freak' verdicts, indicative of what may happen when an untrained Coroner directs an untrained jury. For some of these errors the state of medical knowledge at the date is more responsible than the defects of the individual Coroner. For example, for many generations the cause of the deaths in certain hospitals was solemnly recorded as 'want of breath.' The verdict now phrased 'Natural causes' used to be 'Died by the visitation of God,' a judgment once amended by a perplexed jury into 'Died by the visitation of God under very suspicious circumstances.'



But nothing but native muddle-headedness can have been responsible for the verdict on a child six months old, 'Found dead, no evidence to show whether born alive.'

It is the duty of any one finding a dead body to inform the Coroner. So well has this duty penetrated into the minds of the population that some years ago a Somersetshire quarryman, who, in the course of his work laid open the tomb of a prehistoric man, promptly informed the Coroner of the discovery of the crouching mummy it contained. The procedure of a Coroner's inquest is as follows. The Coroner appoints a day and place for the inquest as soon as he learns of the death. In most towns there is a Coroner's Court, but in the country the inquest (a word merely meaning inquiry) is held in any convenient large room, very often at an inn. The jury has to 'view the body,' a proceeding which does not usually enlighten them much; witnesses are called to give evidence as to the accident, or the state of health in body or mind of the dead person; the Coroner sums up and the jury give their verdict with or without comment or 'rider.' Procedure is sometimes very lax and informal at an inquest, and this perhaps gives the occasion for most of the criticisms directed against them.

If the verdict is given of murder or manslaughter against a particular person, the Coroner issues a warrant and the Crown is obliged to prosecute, whatever the opinion of the Public Prosecutor on the case may be.

The institution of an inquiry into the causes of sudden death is obviously very desirable and necessary, and acts as a check to murder and a barrier to acts of violence by government agents or powerful people. Most of the inquiries are fair and effective, and efficiently done. There is, indeed, very little chance of mistake in a large number of accident cases. There have been, however, several notorious examples where evidence has been admitted or questions put that would never have been allowed in a court of law.

Such was the inquest on Mr. Bravo, who was poisoned, when the jury returned a verdict of murder against Mrs. Bravo, who was afterwards tried and acquitted, but died as a consequence of the strain she had undergone. Here the deluge of suspicion, rumour, and the putting of leading questions amounted to a scandal. It is also sometimes complained that there are not enough inquests held, and that poisoners escape punishment for this reason. It certainly seems strange that all Coroners cannot be of the standard which some Coroners attain, or at any rate that there should be no standard of legal and medical knowledge required of them.

The English, taken as a whole, are a law-abiding people, and there is very little organized resistance to the action of the police or the judgments of the Courts. The fundamental reason undoubtedly is that the laws and verdicts are held to be just and the Judges impartial and incorruptible. The public may disagree with any particular verdict, but they believe in the good faith of the tribunal. Where this belief in the justice of a particular law does not prevail, there have been cases of widespread and stubborn resistance to it. The most recent case, perhaps, is the resistance to the vaccination laws, which finally obliged the Government to give way. The most remarkable was undoubtedly the resistance of the Quakers or the Society of Friends to the marriage laws of their country. Until well on into the nineteenth century the only people licensed to perform legal marriages in England were clergymen of the Established Church. It used to be a phrase among Dissenters, 'Never been into a church except to be married.' The Quakers would not make even this solitary act of conformity, but held a ceremony of their own in their own meeting-house. This ceremony, though held binding by the parties, had no legal validity, and the children born of such unions were, in law, illegitimate. The Quakers got round many of the inconveniences of such a state of affairs with the help of lawyers of their own community, who saw to

it that all wills or settlements or other property arrangements were properly in order. Beyond this concession they simply ignored the law of the land, and this went on for nearly two hundred years, until, as a result of protests made chiefly by non-Quakers, they, together with other religious bodies, were allowed to celebrate marriages.

English law is peculiar in the fact that it is not unalterable. In theory, every Judge is bound by precedent, i.e. the decisions of previous Judges. But besides precedent there also exists a number of general maxims scattered through judgments and statutes which a Judge may suddenly invoke in a particular case, and with their aid cheerfully sweep into the rubbish heap what up to that date had been regarded and acted on as the law of the land. A case occurred recently in the House of Lords. An objection was made to the will of a Roman Catholic which contained a bequest of money for masses to be said for the soul of the testator. It was pleaded that such a bequest had been repeatedly declared illegal by the Courts, and undoubtedly it had. The Lord Chancellor, Lord Birkenhead, allowed the bequest; and delivered a long judgment to the effect that emancipation was emancipation and that if a particular body of people had been given all the privileges of citizens, those privileges must be held to include the right to bequeath their money with as much freedom as other citizens, and thus in the space of half an hour he swept away what had been regarded as unquestioned law for more than a century.

Just as the great body of law is held to be, it suffers from several notorious defects. For one thing, it is not easy even for an educated person to understand. Common Law, vesting largely upon precedent, the stringing up of precedents into a chaplet of conclusion, is a process only possible to experts. Nor is Statute Law much better, for, upon examination, it is often found to consist largely of references to earlier statutes, involving much wearisome research to the unwary

inquirer. Housing Acts and Acts relating to the position of employer and employed are conspicuous for this defect. Re-coding, or the statement of the present position of the law as established by volumes of Acts amending each other, and strings of precedents reaching back for at least a century, is desperately needed, but such a work would take the whole lives of a number of experts, and to be effective ought to be a constant function of the State. Most people do not 'go to law' and, therefore, do not realize the necessity for it, which means that no Government is aware of any pressure on them to initiate such a re-coding. Consequently the work is put off and each amending Act makes matters worse.

In theory the Courts are open to every subject. In practice the power to obtain redress is limited by the power to pay legal expenses. That perhaps ought not to be regarded as only characteristic of English Law. It was in a modern French play that a character observed 'Justice is free, but the measures for obtaining it are not.' But, to judge by proverb comedy, the problem of legal expenses would seem to have non-plussed civilization from its beginnings. In criminal cases some foreign countries have an official known as a public Defender, who undertakes the defence of poor prisoners. But even that does not cover the case, for example, of the small shopkeeper or professional man libelled by the more scurrilous and protean type of newspaper, whose business arrangements are specially constructed so as to leave not a wrack behind available for either costs or damages if a verdict is obtained against them. The unfortunate person libelled may, under present conditions, be ruined if he does not bring an action, and weight himself with a crippling debt if he does.

PART IV

THE

GOVERNMENT OF THE NATION





## CHAPTER XIII

### WESTMINSTER

THE British Parliament meets at Westminster ; in that immense imitation Gothic building which stretches for about a quarter of a mile along the side of the River Thames, in the heart of London. It is a building of modern construction, designed on large lines, but miserably mutilated by the action of the Parliament of nearly a hundred years ago, which became scared by the money being spent upon it, and completed its construction in a crude and cheap manner. In consequence, when examined in detail, the heavy repetition of similar mechanical design is judged and condemned by that great product of the real Gothic spirit, the Abbey of Westminster, from which it is only separated by a narrow street. But there remain still a dignity and splendour about the design as a whole seen from afar, and especially with the water washing round it, and reflecting its two great towers and high roofs and pinnacles. In a scene familiar in picture and photograph throughout the English-speaking world, it appears as a not unworthy centre for the most astonishing 'Empire' the world has ever seen.

Ingress is by a multitude of entrances into a labyrinth of halls, corridors, committee rooms, lobbies, staircases, whose complete exploration would take many days or weeks. These all, however, surround and have some function relating to the central core or heart of the Government. At one end is a comparatively small Chamber surrounded by galleries,

and with seating accommodation for some three or four hundred persons, cut off from the fresh air, and from all external views, and lighted by high windows near the roof. The ornament is severely plain, and the accommodation consists of long rows of seats of dull green leather arranged like a college chapel or church choir, each half facing the other. This is the House of Commons.

You pass out through the swinging doors of the main entrance, through an inner lobby reserved for Members and their friends, down a long and broad corridor, broken half-way by an outer lobby, to which any of the public have free access. The corridor terminates in other folding doors through which you pass into a Chamber similar in design, cut off in a similar fashion from the open air, with the same high windows, but elaborately ornamented with gold and colour, and red leather seats instead of green. Behind a barrier at the end of it is a plain gilt red chair which is only occupied by the King when he visits Parliament. This is the House of Lords. These two between them form the High Court of Parliament, which is the effective Government of England.

As you enter by the main doors of the House of Commons you find on the left hand the Members who usually wish to be reckoned as supporting the Government of the day, on the right hand those who wish to oppose it. Straight in front is a bare open space separating the combatants. And at the end of this is a box or table at which sit facing you two or three officials of the House in wigs and gowns, with books in front of them to guide them on points of procedure which may be raised. In front of this rests the great silver Mace, which is the symbol of the authority and functioning of the House of Commons—the legitimate child of that ‘bauble’ which Cromwell ordered his soldiers to ‘take away,’ and by so doing demonstrated that the House of Commons no longer existed.

Behind this table is the throne of the 'Speaker,' surmounted by a great canopy, and towering high above the heads of the sitting Members. Every day, before the religious ceremony and subsequent business of the House begins, the Speaker and the Mace Bearer, in solemn procession, enter the Chamber, and convert a place which, without their presence, has been the scene of sight-seeing by strangers or the casual conversation of Members, into a solemn Session of the House of Commons. And the departure of the Speaker and Mace at the end of each Session denote that the House is adjourned.

The Speaker is at once the ruler and servant of the House of Commons. He is not a member of the Government, nor appointed by the Government. He is a Member of Parliament elected by free vote of his fellow Members to his high office at the beginning of every Parliament. His function is indeed in part to assist in getting Government business through, but that is on the assumption that the getting of Government business through is desired by a majority of Members of the House of which he is the representative. A more important part of his work is to see that the Government does not encroach upon the rights of the House as a whole, and especially to protect the rights of each individual private Member, who may be obnoxious to the Government, against Government overbearance.

The House of Commons makes its own rules regulating its methods of carrying on its business. These rules are called Standing Orders. It can and does alter its rules from time to time, to suit its own convenience. The Government can propose, to the House, to alter these rules, but has no power in itself to alter, violate, or suspend any one of them, neither can the Speaker alter the rules. His power is to administer them. He often gives decisions against the Government when the Government wittingly or unwittingly has attempted some breach of them.

Apart from these rules, he has wide powers in the

conduct of business. He can call individuals to order for disorderly conduct. He can report to the House of Commons when a Member has disobeyed his ruling, and the House of Commons then invariably suspends the Member from its deliberations, and the Member has to leave the House or be forcibly removed, and remain outside it for a longer or shorter time. The choice of the Members to carry on debate rests entirely with the Speaker, and when more than one Member rises, he can choose any of them he pleases to speak. And although in practice a new Member has always a right of place for his maiden speech, and a Member of the Government, if he wishes to speak, or a Member of a former Government on the Opposition bench, if he wishes to reply, is called upon before a private Member, in theory the Speaker need observe no such rules. And in consequence he could, if he chose, largely hamper a man's career for whom he had a dislike by always calling upon other Members first, and giving him no opportunity of exhibiting his talents. Although no man worthy to be called to such high office would so abuse it, in practice the Speaker does by wise choice actually regulate debate; pitting doughty antagonists one against the other, arranging at certain times for Government to reply to Opposition in a crowded Chamber; at others, when he thinks they have had enough of it, calling on well-known bores or prosy speakers, of whom there are always plenty anxious to do him this service, whose appearance causes the House to empty, and whose deplorable periods create that sense of weariness and fatigue which causes the House to desire to get rid of that question and come on to something more lively. So that by this mere power of selecting speakers, he can assist in the forwarding of business. And he can thus help, even apart from the use of that power which is vested in him by the House (called the Closure), of inviting, after application of a Member, the House itself to say whether it has had enough of it, and deciding, by a majority in which more than



a hundred Members vote 'Yes,' to bring the discussion of some particular question summarily to an end.

The Speaker is also the representative in person of the House of Commons: of the whole assembly of elected Members, independent of the Government. He heads the Commons when they are called to the House of Lords to hear the King's Speech at the opening or conclusion of each Session, or at any time when the assent of the King is given to new laws. If in any way the 'privilege' of the Commons is violated, the protest is made by him. If evil-doers defy the House on these matters he can call them to the 'bar of the House,' rebuke them, or even incarcerate them in prison in the 'Clock Tower' of the House.

The House of Lords has no such elected President, and suffers thereby. The Lord Chancellor does indeed sit in robes, uneasily and without dignity, on a kind of large, red-covered hassock, popularly termed the Woolsack, and invites the Members, after discussion is ended, to record their decisions. But he has no control over debate. Unlike the Speaker, he is a member of the Government, and often takes active part as a partisan. He does not represent the House of Lords as a whole, apart from the Government of which he is a member. Any noble lord may arise and address the House when another sits down, and indeed there is nothing to prevent several noble lords addressing the House at once, as often happened in representative Chambers in mid-Europe and elsewhere. In practice, those who wish to speak give in their names to the Government officials, and these arrange the order of the speaking. But there is nothing to prevent two or three noble lords arising to speak, and each refusing to give way to the other; when the only course to be adopted is, not the interference of the Lord Chancellor, but the House itself actually interrupting its business to decide by vote which of these rival orators they desire to hear. And this rather ridiculous incident has actually happened in the past.

Around these two central Chambers are various accessories which go to swell the bulk of the Palace of Westminster. There is a series of committee-rooms which are continually in use during the Parliamentary Sessions. There are reading-rooms, dining-rooms, smoking-rooms, libraries, rooms for Ministers. In one part a whole separate suite is set apart for the accommodation of the representatives of the newspapers. There are rooms for the use of the officials of Parliament, and for the officials of the great Party organizations. On the land side of Parliament, standing between the building of active life and the Abbey, which is the home of its greatest dead, stands the great banqueting-hall of William Rufus, in which have been exhibited so many of the great scenes of the pageant of British History. Here Burke impeached Warren Hastings, and Pym Strafford. Here Charles I was sentenced to death for war against Parliament and his people. Here lay in state for public respect the body of Gladstone.

The whole place is full of memories; and in unbroken maintenance of a great tradition stands unrivalled by any centre of Government in the world. Under the present Parliament building you can see the cellars in which Guy Fawkes once stored his powder, designing to seal the fate at least of one Parliament for all time. At the end of the great entrance you may see the very spot where the famous five Members attacked by Charles I fled by a back door to the postern gate to the river, and so out into the country to raise the great Civil War. Under a glass case in the Library is the journal of the House of Commons of one historic day, open at the page where it is cut suddenly short as Cromwell entered the Chamber with his soldiers, and commanded the destruction of the representative and historic Parliament of England. Cromwell died, and Parliament returned. Other rulers have tried later to challenge the supremacy of Parliament, and all have failed. The historic words of a prophecy of three hundred

years ago remain unchallenged and unchallengeable. No man ever set himself to break Parliament but Parliament broke him in the end.

Although power is thus concentrated in this great and complicated building, the apparatus of Government fills other vast erections in its neighbourhood. Each of these contains a Ministry carrying out some definite Government function allotted to it by Parliament. At the head of each is a Minister, who is responsible to Parliament for the maintenance of the work of that Ministry in accordance with its wishes. These Ministers, collected together as one body called the Cabinet, and under the Chairmanship of a Prime Minister, carry on the Government from day to day. And none of the thousands of officials, from the men of high distinction and great talent at the top to the humblest clerk or charwoman at the bottom, can perform any work at all except under the responsibility of that Minister, who has to take the praise or blame for anything they do.

In the older days the responsibility of each Minister to Parliament for carrying out the wishes of Parliament was largely an individual and personal one. The Cabinet was a loosely joined body of Ministers, many of whom even advocated different policies, or attacked the speeches of each other. In those days the House of Commons could censure if they pleased the action of one Minister, and so compel him to resign, without touching the condition of the Government as a whole. But to-day the idea of collective responsibility of the administration has replaced that of the individual. The act of any one member of the Government is assumed to be the act of the whole; and a successful vote of censure on his work by the House of Commons would probably involve the resignation of the whole Government. In actual practice a Government which desires to remain in power, and finds that one of its members has done something which the House of Commons does not approve, generally solves the difficulty by persuading

that member to resign before coming to a definite challenge to its own existence.

Stand between the Palace of Westminster on the one hand and the Abbey on the other, and look through the broad spacious avenue of Whitehall and its termination in the lions and fountains of Trafalgar Square, to the great column with the statue of Nelson upon it at the end. You have practically within your vision the whole apparatus of the Central Government of England and the British Empire. At the end, confronting each other, are the Ministries of Imperial defence, the Admiralty and the War Office. One glances down Whitehall, by the Treasury, the Home Office, the Ministry of Education and the Ministry of Health, the Board of Trade, the Foreign, Indian, and Colonial Offices, and other lesser operative centres. In a little turning to the left, between the Home Office and the Treasury, in houses completely overshadowed by the vast bulk of Government Offices confronting them, are the official residences of the Prime Minister and the Chancellor of the Exchequer; in that 'Downing Street' which has become an historic name all through the world. Halfway down this avenue of huge Government buildings still stands the little banqueting hall which is the last remnant of the old Palace of Whitehall; with the inscription on one of its windows recording the fact that, through this, Charles I went to his death on the scaffold for challenging the right of Parliament to rule. That same Charles I in triumphant equestrian statue, in front of Nelson's column, looks down the whole of this historic street, to where, with his back turned towards a Parliament which he once destroyed, Oliver Cromwell gazes heavily and inscrutably on the statues of the transitory great which adorn Parliament Square. And in the midst of this busy and crowded thoroughfare, occupied perpetually by the ever-changing perplexities of the Government of the living, stands to-day the simple, plain monument to those whose devotion and sacrifice alone saved from destruc-



tion the people for whose benefit this Government is designed : the Cenotaph inscribed to the immortal memory of ' The Glorious Dead.'

The Government of the day which controls all this enormous machinery, is entirely the creation of the House of Commons. It is dependent on the House of Commons for its creation, preservation, and all the blessings of its life. On its first appearance it has to be assured of the support of a majority of the Members of that House ; and if at any time in its career those Members withdraw their support by carrying a ' Vote of Censure ' against it, that career comes abruptly to an end. Strictly speaking, however, it is not the Government, but the head of it, who has to retain the confidence of the House. He is entrusted by the King with the work of carrying on ' the King's Government.' In theory the King could send for any Member of the House of Lords or House of Commons and ask him to undertake the work. In practice, until lately, he has found it impossible to make the effort successful, except when entrusted to the recognized leader of one of the great two Parties—Liberal and Conservative—into one of which most of the Members have been collected during the past hundred years. If, however, parties break up in the British Parliament into a number of groups, this function of inviting the leader of one group and not of another may come to have as much importance here in England as it has when exercised in France to-day by the President of the Republic.

But Parliament has no choice at all in the allotment of the various offices of State, which are entirely in the gift of the Prime Minister. He not only selects the chief Parliamentary heads of Departments—the Lord Chancellor, the Secretary for War, the First Lord of the Admiralty, and the rest—he personally appoints every single Minister of the Government, down to the humblest Under-Secretary, and the Under-Secretary is appointed regardless of the wish



of, and often in direct antipathy to, the Chief whom he is to serve. It is true that the Government, as a whole, thus appointed, has to be given and to retain the confidence of the House of Commons. But it is unlikely that this confidence would be impaired by the fact that one particular Member, however popular, is left out, or one, however unpopular, is included. To the limit of a not entirely unreasonable exercise of patronage, the Prime Minister is a dictator.

Ministers may be chosen from the Lords or Commons. For some offices indeed they must be Members of the one House; for others, of the other. Thus the Lord Chancellor must be in the former, and the Chancellor of the Exchequer and the Home Secretary in the latter. Other heads of Departments may be in either.

The Prime Minister chooses the principal of his colleagues to form his 'Cabinet.' It is only recently that this Cabinet has received any official recognition at all. In form, it is merely a Committee of His Majesty's Privy Council advising the Prime Minister. Until recently it maintained that position as 'advisory' only. Its members gave advice, and the Prime Minister acted upon it or not, as he pleased. No votes were taken. No record remained of the proceedings. Often at the conclusion of a meeting the members separated without the slightest idea which of the various advices offered at such a meeting the Prime Minister would accept.

If a Minister objected to any such policy, his only recourse was to resign. If he did not resign, he was compelled to defend a policy he may have violently opposed; and he could never tell the world outside that he had opposed it, for he was under an inviolable oath of secrecy never to divulge such differences. In a famous Prime Minister's verdict it was necessary that the Cabinet should hang together lest they should hang separately.

Later, the Cabinet has developed towards an Executive Council. A Secretary to the Cabinet has been

appointed (a course which would almost make Gladstone or Disraeli turn in their graves), and regular 'minutes' of the proceedings are taken. It is possible that Government in England may even develop into Government by a Committee, a thing unknown in England since the Government of England first was.

In the House of Commons 'His Majesty's Opposition' is recognized as much of an entity as 'His Majesty's Government.' It is led in the main by men who have previously been Ministers of the Crown, and who sit on the front bench facing the members of the Government. It has no influence at all, except through the debate in the House of Commons, upon the activities of the various Departments of the Government machine. If it is treated with respect, this is largely because it has one day governed the country and will probably do so again, and because in normal times it represents that half of the voters who are always against any particular Government of the day. The supporters of Government and Opposition are enrolled in parties, which maintain an immense organization in every town and village of the country. This organization is largely financed by mysterious and secret 'Party Funds,' to which the wealthy members of each Party are supposed to subscribe, for disinterested love of their cause, or for other reasons. In the case of the Labour Party, the funds are largely obtained by a small levy per head on all the members of the Trades Unions who do not protest against such a levy.

Each Party machine has at the head of it a 'Chief Whip' (as the Patronage Secretary to the Treasury and similar functionary in the Oppositions is called), with various 'Under-Whips,' who are supposed to maintain discipline in the Party, ensure by flattery or fear that Members attend for important divisions, placate their Members by the settling of grievances or the promise of rewards, and generally superintend

the work inside and outside Parliament of keeping their Party in power or getting it back to power if they have lost it for a time.

The House of Lords is immortal : unless Parliament itself decrees its change or extinction. It is recruited from the heirs of peerages, on the death of previous holders of the title. It is recruited also by numerous creations of peerages, made by the King on the advice of his Prime Minister. If these creations ceased, the number of peers would steadily decrease, and in time the whole body would dwindle and die away. The House of Commons is immortal except for those brief periods between the dissolution of one particular body of elected persons and the election of its successors. It cannot, under present law, escape the process of such a change for longer periods than five years. It cannot even ensure itself that scanty duration of life. At any time during its existence the Prime Minister may advise the King to dissolve it, and call its successor, and if good reason is apparent for such a course, this advice will be invariably obeyed.

In ordinary opinion Parliament is a place where men make the laws of the country. To the cynic, it is a talking shop or debating society where the loudest and longest speaker triumphs ; in work which is always futile and never properly done. And both these facts are in part true. The House of Commons, in general with the assent, but sometimes without it, of the House of Lords, does make laws and alter laws, and abolish laws, and is perpetually engaged in this work. And the House of Commons is a debating society in which, through the greater part of the year, and for many hours of the day, the continual drip of talk never ceases. Members come and Members go, and visitors do likewise. Sometimes the Chamber is filled with four or five hundreds of Members, and the galleries crowded. Or the Chamber is filled with four or five, and the galleries empty.

But within the allotted hours of its sitting, summer or winter, in hot weather or cold, through tea-time, through dinner-time, and far towards midnight, the visitor who looks down upon the scene below can always find somebody talking, and some one waiting to stand up and talk when he sits down. And every word of this mileage of talk is solemnly taken down by shorthand writers, printed at the public expense, and published in neat blue paper-covered volumes (called for short 'Hansard'), which any citizen of the country may freely purchase, in order that he may be cheered or saddened by reading what talk has gone on in his Parliament the previous day. This everlasting stream of loquacity is only broken at intervals by 'divisions,' in which the debate is interrupted in order to record some definite decision upon the point concerning which Members have been talking, before they pass to similar talk on another subject.

In theory this is a debate before an audience. The talkers are supposed to convince by argument that they are right and their opponents are wrong; and the audience are supposed to make up their minds one way or the other under the influence of these persuasive appeals. On actual practice things are quite otherwise. The talk continues before a small body of Members scattered about the Chamber, most of whom are only remaining within it in order that each may leap up and be called upon to talk when the prevailing talker has exhausted his energy and his argument.

When all are exhausted, or the appropriate time has come in the opinion of the House for the stoppage of talk on that subject, or the taking of a decision, bells are rung all over the labyrinth of buildings, and Members come flocking in, in numbers, from smoking-rooms, lobbies, dining-rooms, and terrace; most of whom have never heard a word of the debate, and have but the dimmest ideas of what it is all about. But they are shepherded by their Party officials, in

whom they trust, into one of the two corridors, by walking through which, and having their names ticked off by tellers appointed for the purpose, they vote either 'yes' or 'no' for the subject which is supposed to be under consideration. They then return to lobbies, committee-rooms, smoking and dining-room, and terrace, having definitely created out of nothing a little piece of what will some day be the law of the land. And the old talkers, refreshed by the interval, or new talkers specially interested in the new piece of nothing which is destined to become law, start again that debate, which is only interrupted for a time by the cry towards midnight, 'Who goes home?' but which will be resumed next day, and continue its dull or brilliant progress as long as Parliament endures.



## CHAPTER XIV

### THE WORK OF PARLIAMENT

- (a) THE REDRESSING OF GRIEVANCE
- (b) THE CONTROL OF EXPENDITURE
- (c) THE MAKING OF LAWS

**P**ARLIAMENT is something more than a machine to make laws, or a debating society. It has two other functions of far greater importance in the life of the community. These functions affect the conditions and happiness of every family in the nation. They are of such importance that if Parliament made no laws at all it would still be far the most important assembly in the State.

#### (a) THE REDRESSING OF GRIEVANCE

The first of these is the control by the people, through the elected representatives of the people, of the machine by which this people is governed. That machine is called the Executive, and any or every act of that Executive can be challenged, approved, or condemned by the House of Commons, and if condemned, it has to be changed.

There are many great democratic states in which the Executive is altogether outside the Assembly which makes the laws. In America, for example, the people elect, by the widest possible popular vote, a Dictator, whom they call the President, who, in national as distinct from State affairs, has nearly absolute power for four years, as far as all the administration of the Central Government is concerned.

He chooses his ministers from outside Parliament. They are responsible to him and not to Parliament, and he is not responsible to Parliament, and he can carry on the administration of the country how he pleases, subject only to the limitations, on the one hand, of a challenge to his action before the Supreme Court of Justice, as being unconstitutional; and, on the other hand, to its impeachment by overwhelming majorities of the Elected Chambers as being intolerable and not to be endured.

But the Parliament of the British Isles recognizes no such Dictator, either in the Prime Minister, or the Cabinet, or in both combined. And every grievance of every citizen, however humble, in which the Central Government may be directly or indirectly concerned, may be brought for redress before the House of Commons, to be justified or remedied by the responsible Minister in that Assembly.

Two activities indeed of what people recognize as Government, Parliament has no control over, and to that extent its impotence is limited. It cannot alter the decision of a Judge of the High Court of Justice, although it has power by a big majority to demand the removal of the Judge who has given that decision. And it cannot alter the decision of the Courts of Justice on the meaning of a law that it has passed, even although that meaning is interpreted by the Judges in the exact opposite of what Parliament intended that meaning should be. But it can find redress for this grievance by passing another law, altering the words of the Statute; and it can pass an Act of Indemnity, by which anything done by its servants and declared by the Judges illegal through such interpretation shall be relieved of all otherwise consequent pains and penalties.

The old maxim that the King can do no wrong remains as true to-day of the sovereign power of Parliament represented by the signature of the constitutional monarch as when an absolute Emperor could do unchallenged any act which pleasure or

caprice urged him to perform. Parliament can do no wrong. No judge or higher authority can challenge or deny any decisions, however absurd or monstrous those decisions may be even to the very people who elected those Members of Parliament. In America the laws as they are passed can always be challenged as violating the written constitution of the Federation of States. And if the Supreme Court of Justice declares that they are in violation of it, they are annulled, and do not become law and cannot become law unless the constitution itself is changed. But in Britain there is no written constitution, and Parliament can do exactly as it pleases during the years it remains in office. It could pass a law that every red-headed man should be hanged, and the courts of law would have to carry out its bidding, and hang every man whose hair was proved to be red. It could pass a law that every man who now had no property should receive the property of those who had some, who henceforth would have none. It could destroy a whole country by the use of the army and navy, which are under its control. It could eject great portions of the British Empire and hand them over to other territories, or to govern themselves.

This absolute power rests with the House of Commons because it has the power of passing laws even if the House of Lords rejects them in three successive sessions. It could even withhold the right of appeal to the Court of Justice, by itself decreeing sentences on any man without judicial aid. There is an historic example of such supplanting by Parliament of justice by law in the treatment of Strafford by the Long Parliament of 1641.<sup>1</sup>

<sup>1</sup> Strafford was first impeached for high treason by the Commons before the House of Lords sitting as a judicial body. After eighteen days of trial in Westminster Hall, it was obvious that the impeachment would fail, and no legal charge of treason could be proved. The Commons then dropped the Impeachment and introduced a 'Bill of Attainder,' substituting a Statute for a trial—in fact, assassination by legal form. The Solicitor-General (then on the side of the Commons) utilized

And there is nothing in the constitution to-day to prevent Parliament from passing a ' Bill of Attainder ' committing to prison or death for unspecified offence Mr. Asquith or Mr. Lloyd George, Sir Edward Carson or Mr. Robert Smillie ; and if to prison, deliberately overriding Habeas Corpus, as Habeas Corpus was deliberately overridden by the Defence of the Realm Act during the War.

Its power is limited by only two things ; the first, that the House of Commons by statute is elected for only five years, and then another Parliament is elected which can reverse the decisions of its predecessor. But even here in theory there is no such ultimate limitation. For a House of Commons itself could introduce a Bill that it should sit for ever, and if passed three Sessions running the Bill would become law, even if opposed each time by the House of Lords. No one could appeal against such a decision to any constitutional authority. Therefore its two limitations become in fact only one. This is the consent of the governed ; or rather the willingness or unwillingness of any section of the community to carry out any active or passive resistance to the laws which Parliament has passed. Such a passive resistance was carried out some twenty years ago by a respectable class of citizens against an Education Act of the Parliament of the day, and entirely failed to prevent that Act being put into operation. Such an active resistance was planned by the League or Covenant of Ulster. This League, in conjunction with a large number of persons

arguments not uncharacteristic of the methods adopted by succeeding Law Officers of the Crown. ' In that way of Bill,' he argued, ' private satisfaction to each man's conscience was sufficient, although no evidence was given in at all.' ' We give laws to hares and deer,' he declared, ' because they are beasts of the chase ; but it was never accounted either cruel or foul play to knock foxes and wolves on the head, as they can be found, because they are beasts of prey.' Under such an Act, and supported by such arguments Strafford was executed. It is true that the Bill in those days required a deliberate and not, as to-day, an automatic Royal Assent ; but the king was Charles I.

of wealth and social position in England, planned an armed rebellion if an Act was passed in England which, if unpopular with many and even passionately hated by all, was a perfectly legal exercise of Parliament's authority. Whether this act of rebellion would, as a matter of fact, have overthrown the authority of Parliament, or whether the people would have rallied in defence of their representative assembly against 'Direct Action,' as they once rallied in defence against kings, remains for ever conjectural. For the sudden catastrophe of the European War swept at once rebellion and resistance out of the minds of men.

But the precedent has evidently not passed unmarked. There are suggestions of other movements from below in which laws may be defied or decisions of Parliament overthrown by threats of violence and direct action, rather than by peaceful methods of constitutional government. And the House of Commons, after having in the past, in a struggle lasting many hundreds of years, resisted any attempt to challenge or break its authority from above by king or nobles, may be passing in the future into a period of no less desperate a struggle against sectional forces from beneath, which will endeavour to undermine its authority and defy its power.

The right of general inquiry into the action of the Government machinery takes two forms. The first is that of question and answer, which can be fortified by debate if the House so pleases, and if necessary by definite censure on the Government of the day. The second is the old historic method asserted first against the King and won by war, now against a Government which is itself the Parliament's creation; that grievances shall be redressed before the money is granted, necessary to carry on the business of the State.

In the first case the proceedings are simple. Four days a week, while Parliament is sitting, some fifty minutes of its first business is reserved as a time for



questioning Ministers. Any Member of Parliament can hand in to the Clerk of the Table in writing a question of any kind dealing with small things or great, addressed to any Minister of the Crown. The only limit to the nature of questions is of decency and good taste, or as in themselves involving confidential revelations which the Speaker may refuse to have put on the paper at his discretion, or questions which are not relevant, and cannot be made relevant to the work of any department of Government.

In practice almost any event can be brought within the ambit of some or other of the Government Departments. Thus, such questions as who won the Derby, or the adventures of a particular murderer, or the actions of some local authority outside the jurisdiction of the Central Government, would seem to be impossible. But a little ingenuity on the part of the Member can make almost anything relevant, for in the one case he can ask if the attention of the Minister for Health had been drawn to the conduct of the Municipality of A in doing so-and-so, and what action he proposes to take in the matter. Or in the second, he can ask the Home Secretary, who is responsible for Law and Justice, whether he has seen the report that a murder has been committed at B, and what information the Government can give of action to assure the arrest of the alleged culprit. Or in the third, which indeed is a borderland case and rather more difficult, some such query as whether the fact that a certain horse at long odds against him won a public race, has not caused a serious loss to a large number of citizens calculated to promote a breach of the peace, and whether he proposes to take any action in the matter.

In any case the Order Paper of the House of Commons, that is the daily agenda issued for the convenience of members of the work and business of each day, is found to contain a long list of questions numbered and arranged in order, which have been handed in more than two days before, with the names of the Members asking them and the names of the

Ministers answering them. You pass in the list from subjects so varied as the dismissal of a postmistress in the Orkney Islands or the withholding of an old age pension from an old lady of uncertain age (sworn by various reliable witnesses as fifty, sixty, seventy, or eighty) in a village in County Clare, to an inquiry when the Government intends to try the Kaiser, or to make peace with Russia, or carry out vast projects of Imperial change.

Each and all are treated with the same apparent deference. The Speaker calls Mr. Smith, whose name is affixed to question number one. Mr. Smith rises and says: 'Number One, Sir, of (say) the Home Secretary,' and sits down. The Home Secretary rises from the Government bench and says curtly or pleasantly 'No, Sir,' or 'Yes, Sir,' or 'The answer is in the negative,' or 'I will have inquiries made upon the subject.' Or, if there is a real scandal behind the question which he desires above all things to refrain from openly discussing, he will say in the most friendly fashion: 'I am much obliged to my honourable friend for calling my attention to this matter' (though he himself may be black at heart at the unpleasant disturbance thus threatened), 'and I will be very glad if he will communicate with me in private on the subject.' Or if his mind is quite empty, and he has nothing at all to say, he will answer briskly: 'I will make further inquiries on this matter,' and so sit down, although, as a matter of fact, he has made no inquiries into this matter at all. If nothing happens after these enlightening replies, the Speaker calls on the Member who has number two on the paper, and so on, through three, four, five, and the rest, until the end.

Were questions nothing more than this, however, the task of a Minister defending his Department would be easy. For with two days of notice, the Secretary to the Minister conveys all these questions which are going to be asked of him to the members of his Department who are concerned, and these concoct

the answers, which at the appropriate time are read out to the House of Commons. There is little prospect under such a system of Parliament ever obtaining the truth on any subject concerning which the Minister wishes that the truth shall not be known. Indeed, in one recent Committee's examination of alleged harsh treatment of a Government servant, it was revealed that the Minister himself had laid down the definite distinction between 'truth' in the abstract and 'Government truth' as modified for a Parliamentary answer.

But the Members of Parliament have a more potent weapon in the power they possess of cross-examination of Ministers upon their answers, in the form of what are called supplementary questions. Thus, a Minister may have thought he has turned a sharp corner by a clever evasion prepared for him, and has sat down complacently after a non-committal reply; when immediately up jump from every corner of the House Members suddenly apparently seized with emotions of anger or pain, who shower in queries as 'Arising out of that answer, are we to understand that, etc.?' or 'Is it conceivable that, etc.?' Or 'Does he intend to, etc.?' And so on. This is the real game of hide-and-seek which provides the sport and enjoyment to Parliament at the time, and to the public outside as they read it in their newspapers. So that the hunting of a Minister in this manner on some not, perhaps, important question, occupies more space in these newspapers than the report of hours of the speeches in debate. A Minister may indeed sit dumb and glowering in face of his persecutors, and no power can make him reply; as did Mr. Churchill on one historic occasion, when, as all the Members were shouting 'Answer, answer!' the Speaker pacified the rising tumult by informing the House that it was impossible to draw blood out of a stone. Or he may take refuge in the reply: 'I must have notice of that question,' as a late Under-Secretary for Foreign Affairs was instructed to do by his Chief who was in

the House of Lords, and thus replied so automatically that the time came when a member inquired with an air of innocence: 'Are we to understand that the answer just given means Yes or No?' To which the Minister replied 'I must have notice of that question,' to his subsequent confusion and the no small enjoyment of his colleagues.

But the majority of Ministers enter into the game with spirit, and it is largely in his action in such a game that a Minister is judged by his fellow-members. If he is invariably good-tempered and cool, if he can judge between the bore and the self-advertiser who he may snub, and the honest or popular Member whom he must praise, if he can show more knowledge of his subject, and thus turn upon his persecutors with answers that leave them silent, and if in awkward subjects he can combine an appearance of innocence with replies which the questioners only after later cool consideration find have evaded all the points at issue, and told them nothing, he is regarded with respect and admiration as one who is 'playing the game' with cleverness and courtesy. If he blusters, bullies, threatens, is fumbling or clumsy in his replies, he is looked upon with disfavour by the House of Commons. And if, becoming expansive, he blurts out some unpleasant truth under cross-examination which had been carefully concealed in his prepared reply, he is looked on with disfavour by his permanent officials, and with some contempt by his colleagues. That is, of course, in cases in which it is desired that the truth shall be avoided, i.e. where there is a real grievance against a Department, where mistakes have been made, or where there are divisions of opinion in a Government on policy, which the Government is desirous above all things of concealing.

But there are numbers of questions which members ask at the request of their constituents, in which the telling of the truth does no harm to anybody. And there are others which Members ask in order to keep their names before the public, and especially before



their constituents, to show they are in attendance at their duties, and active and vigilant for the public good. And there are others which members ask in supplementary questions to show their quickness and cleverness to their own colleagues in the House, or to excite admiration by the good jokes or the bad jokes which make the House of Commons amused, and are reported in the Press with 'Laughter' added, and otherwise would not be reported at all.

The question, however, is but the first line of attack. If the House of Commons is dissatisfied with the answer on an important topic it can fall back on the second. Any Member may rise at the close of questions, and either out of the reply given to a question then put, not on the paper, on some urgent matter suddenly arisen, or on some answer given by a Minister to a question on the paper, he may ask permission, in the technical phrase, 'to move the adjournment of the House on a matter of urgent public importance.' If the Speaker thinks that, in the opinion of the House as a whole (and his function here is to interpret the feeling of the House) the subject is not urgent, or is not a matter of public importance, he will refuse to read out the motion, giving perhaps his reasons. If otherwise, he reads the motion, and then inquires if the Member has the leave of the House. If forty Members then rise in their seats and signify their support by standing silent, the Speaker announce that he has that leave, and the discussion is then put down for debate at 8.15 of the same day, sweeping away all business which otherwise would have been taken at this time.

This motion is, in effect, a vote of censure on some particular Minister or on the Government as a whole. At the appointed time the mover and his friends make their attack, and the Government and its friends reply. The Minister may satisfy his assailants, when the motion is withdrawn; or the still unsatisfied assailants may press the motion to a division either as a protest, or with the hope of beating the Govern-



ment on such a division. The House 'adjourns' naturally in conformance with its standing orders at a certain hour every night, and no one is any the worse. But if the House is compelled unnaturally thus to adjourn on the motion of a Member attacking the Government, it is interpreted as a vote of censure on the Minister or on the Government, and the Minister or Government is compelled to resign.

A third line of attack is independent of question and answer, and also whether the question be of urgent public importance. Any Member of Parliament may have printed on the order paper a notice that he proposes to call attention to some matter of grievance or criticism, and to move a resolution. The resolution will be in practice a vote of censure. He may even, as some Members have done, put down a motion attacking a ruling of the Speaker himself, or the Chairman of Committees, when he thinks either of these have given unfair decisions. Unfortunately for the private Member, his indignation can only explode harmlessly, to the extent of a paper resolution, for the Government has control over the time of the House. And although he will repeatedly rise and call attention to the motion standing in his name, and ask for a day for its discussion, the Prime Minister will as repeatedly and blandly reply that the pressure of Government business makes the giving of such time at present impossible. If, however, the Leader of the Opposition in the past, or one of the Leaders of the Oppositions in the future, asks for a day to propose a formal vote of censure on the Government, or on some important policy it has adopted, that authoritative challenge to its continued support by a majority of the House is invariably accepted, and a debate takes place full of passion and bitterness, in which the enemies of the Government endeavour to demonstrate that no such combination of foolishness and wickedness has ever tormented England before, and the friends of the Government reply by demonstrating that, considering the terrible nature of

their task, and the unfair criticism to which they have been subjected, no Government has ever proved so successful in the steering of the ship of State into its desired haven.

The second apparatus of examining grievances is in the discussion of Estimates in the Committee of Supply. The meaning of those Estimates and the function of that Committee I will explain later. Sufficient here to say that when Government is asking Parliament to provide the money for the carrying on of the work of any department, the House of Commons, first through a committee, and second when the decision of its committee is reported to the House, has opportunities given it to attack any suspected delinquencies in that department. The common form is to propose that the salary of the Minister responsible be reduced by, say, fifty pounds; and under such a proposal any action of any one in that Department can be attacked, for the Minister is responsible for all. In the War Office vote, for example, the quality and nature of the clothing of the Army, or the food and accommodation of the soldiers; in the Navy, the number of ships built; in the Foreign Office, treaties made or not made; in the Home Office, the inefficiency or insufficiency of factory or mine inspectors; and in other offices similar policies and administration may be thus attacked. If the motion is carried, the unfortunate Minister does not lose fifty pounds of his salary. He loses all his salary, and his colleagues also. For, unless they attempt to reverse what they may interpret as a snap vote, unrepresentative of the real opinion of the House, they must resign. And in any case a succession of such snap votes would ensure their resignation.

#### (b) THE CONTROL OF EXPENDITURE

If the first function of the Houses of Parliament is thus to ensure the ventilation and the redress of grievances, the second, no less important, is the

control of the State finance—the raising and the spending of money. This is a function of the House of Commons alone, it having been decided by recent legislation that the House of Lords shall have no voice at all in the matter. The raising of money is done by a Bill passed yearly, called the Finance Bill, or, in a popular term, the Budget. It presents little difference in its progress from other Bills passed by Parliament, and I shall describe it in the section dealing with Parliament as a law-making instrument. But the spending of the public money by the Government is controlled by a system which is completely different from its normal legislative activity. It does this by a method which appears complicated, but which, when examined and understood, is found to be the simplest in the world.

Government money is spent through Government departments, and Parliament only grants to each department the money for its expenses for one year. Any money which has been voted to a department for the expenses of the year, and has not been spent at the end of the financial year—that is, by March 31st—has to be relinquished by the department, and cannot be carried forward into the coming year. Money can also only be spent by the department for the precise purpose for which it has been voted by Parliament. Except to a limited extent by the Army and Navy, it cannot be used for any other purpose. Thus, a department may have obtained the sanction of the House of Commons for two private secretaries and three charwomen. Experience may show that what it really needed was three private secretaries and two charwomen. But it cannot take the money voted for charwomen to pay for private secretaries, or the money voted for private secretaries to pay for charwomen. It must carry on for the year under the conditions sanctioned by Parliament, and only in the arrangements made the year after, if approved by Parliament, can it make the desired change.

Towards the end of the year all the departments

are preparing what are called 'Estimates,' setting out in the minutest detail the amount of money they think they will require for carrying on the work which Parliament expects them to do. Except in the case of the Army and Navy the details of all these estimates are submitted to the clerks of the Treasury for examination and approval. A fierce fight always takes place for many weeks or months between these representatives of the Treasury and the representatives of the departments. The Treasury, whose sole interest is retrenchment, denounces the first suggestion as preposterous, and attempts to hack and hew away great lumps of proposed expenditure. There are continual conferences and committees and discussions over suggestions involving sums varying between ten pounds and a million. The clerks of the departments, if worsted, appeal to their political chief; and the clerks of the Treasury appeal to the Financial Secretary of the Treasury; and interviews, pleasant or unpleasant, are held between these to see if they can agree or compromise. If important disputes still remain, both sides appeal to the Prime Minister, and the subject may be discussed in the Cabinet; or the Prime Minister may again refer the subject to a committee to report and recommend. But beyond the Prime Minister there is no further appeal, and his decision is final. The nature of that decision may, however, be modified by the threat of resignation either by the Chancellor of the Exchequer, who represents the Treasury on the one hand, or the head of the spending department on the other. Such threats rarely occur to complicate a reasonable argument in the case of the ordinary expenditure of a department, in which every year the lower or higher officials come to some more or less satisfactory arrangement, and if they cannot get a hundred, take their pen, sit down quickly, and write fifty. But in the case of military expenditure on armaments, in which, before the Great War, there was perpetual struggle between every Chancellor of the Exchequer who had to find the money, and every



head of the War Office or Admiralty pressed by the whole of his officials for more and more money, these winter Cabinet crises were the normal experiences of Government. Lord Randolph Churchill, when newly appointed Chancellor of the Exchequer, astonished his own Conservative supporters, destroyed his own political career, and changed the political history of this country, because he refused to sign estimates for increase of naval and military expenditure. Mr. Gladstone retired from being Prime Minister, and finally from political life, because his colleagues approved of increased naval estimates. And in the years of the Liberal Cabinet before the war, it was almost the normal experience about every Christmas for the Liberal Prime Minister of the day to find that either his Chancellor of the Exchequer had resigned, or that the First Lord of the Admiralty or War Secretary had resigned, or that all had resigned together, over the difference of opinion between what the country needed, and what the country could afford to spend in the matter of national defence.

Whether decided, however, by questions of high policy and discussion such as the building of Dreadnoughts or the raising of armies, or by questions of lesser national importance such as the amount rightly to be spent on pens, ink, and blotting paper, by the early spring all the Estimates have been signed and approved by the Chancellor of the Exchequer, and are ready to be submitted to the criticism and approval of Parliament. They are first made public by the issue of a series of blue paper-covered volumes presented free to all Members of Parliament, and purchasable at cost price by the public outside. It is probable that not one in a million of that public has ever seen even the outside of these unattractive looking books, and certainly not one in ten of the Members of Parliament give them even a cursory examination. They are supposed to be occult and mysterious, and to require knowledge of Government complication or the higher mathematics for their understanding. But



there is nothing occult or mysterious about them at all. They merely give, in the minutest detail and under classified heads, statements of the various ways in which it is proposed Government money shall be spent during the following twelve months. They are exactly the same in principle, and no more difficult to comprehend, than if an individual householder were to write out on a sheet of paper what he expected the personal expenses of his household would be for a year in advance—so much on house rent, rates, food, and clothes, education of the children, holidays, and enjoyment. The Government estimates are also good enough to give the critic an actual comparison in detail with the money spent in any past year on any object, and the money proposed to be spent in the next year ; so much more, for example, on charwomen ; so much less on private secretaries. If a new service is introduced, demanding money, notes of explanation are given of that service ; why, for example, an airship should be built here, or a new post-office erected there ; in exactly the same fashion as a man in his private budget might say : ‘ I propose to take another servant as I have now five children,’ or ‘ As I am moving into the suburbs, I shall be compelled to spend more money on railway fares.’ The idea which is often entertained even by critics of distinction who have no knowledge of the actual working of the machine of Government, that there is deliberate deception of the House of Commons by the Government concerning the way in which it proposes to spend the public money, or such deliberate concealment of the objects of expenditure as to render House of Commons criticism impossible, is, of course, nonsense. It is true that a certain flexibility was permitted in the great military machines (partly in the desire to conceal new inventions from our future war enemies) which was not allowed in the civil departments, and that consequently a sailor and organizer of genius, the late Lord Fisher, was able to boast that he had spent in secret large sums on new weapons of war without the know-

ledge even of his own political chief. It is true also that during the war a most vicious system of 'Votes of Credit' replaced detailed estimates, and sums of many hundreds of millions were handed over by Parliament to such departments as the Ministry of Munitions without any kind of detailed forecast of how the money was proposed to be, or record of how it was, in fact, spent. But the country has now returned to the normal system, and under the normal system every sixpence which a Government proposes to spend must be recorded in a detailed estimate and approved by Parliament. And if, as I shall show in a moment, this detailed estimate fails as a matter of fact to receive competent and expert criticism which may modify or reduce it, that is due not to secrecy or mendacity of Government departments, but to the conventions under which Parliament works, and to the impossible congestion of the business which Parliament is supposed to survey and approve.

In theory, there is every opportunity given for complete and detailed examination of all these estimates by Parliament; and in theory Parliament, in such a discussion, could lop off any proposed expenses which it thought should not be incurred. But in practice no such examination takes place, nor is any such 'lopping off' possible. It fails to take place for three principal reasons. The first is that Parliament has only a very limited time to give to the examination of estimates, being mainly occupied with other business. The second is that in the time it devotes to such an examination, it is practically always occupied, as I have already described, with the examination of grievances, instead of the hunt for extravagance. And the third is that a vote against a Government estimate is now regarded as a vote of 'no confidence' in the Government as a whole. So that if Parliament insisted on reducing the salary of a washerwoman, or limiting the grandeur of a building of some quite unimportant department, the vote is interpreted as a vote for the destruction of the Government as a whole. And a

change of policy is an upheaval compared to which the salary of a washerwoman or the decoration of a building is a very unimportant thing.

In theory, the estimates of each department are first examined by a Committee of the whole House of Commons, called the Committee of Supply. A Committee of the whole House is a Committee which every Member can attend if he pleases, and in whose divisions he can have a vote. It is thus distinguished from committees of a limited number of Members selected from the House of Commons to which certain work is delegated, and at which other Members may attend, but cannot speak or vote. The Committee of the whole House to which the estimates are first submitted is held in the actual Chamber of the House of Commons, and the casual visitor desiring to see Parliament and finding the House debating 'in Committee,' has to be very well informed in order to distinguish between such a debate and that of the House of Commons itself. Outwardly the only changes are that the great silver mace which lies on the table when the House of Commons is sitting in Parliament is hung half concealed under the table while the Committee is sitting; that the Speaker is absent, and his throne vacant; and that the proceedings are presided over by the Chairman of Committee (the Deputy Speaker, who has been appointed by the Government to this office) who sits in a small and less dignified chair in evening dress in front of the Speaker's throne. In debate itself the only difference is that members may speak more than once on the same subject, a rule which is evidently an inheritance from the time when committee-work was supposed to be a business discussion of detail, instead of a series of set oratorical speeches on great principles. The rule now makes practically no difference, as there are almost always more who desire to speak than time to permit them to do so, and the Chairman having an absolute right to call on whom he pleases, it is very rarely that a Member gets an opportunity to make a second speech. And as nearly every

estimate as presented in committee is made the opportunity of discussion of some big principle, and usually turned into a vote of censure upon the Secretary of State for some specific piece of policy, the lengthy and prepared oration almost invariably replaces any system of quick interrogation about detail. Many of the great set nights of political oratory, with crowded galleries and brilliant and stormy debate, have been held in what, as a matter of fact, has been Committee on some estimate or other. And most of the Governments which have been obliged to resign or dissolve owing to hostile votes of Members of the House of Commons have been thus defeated not in the House of Commons itself, but in Committee.<sup>1</sup>

In theory, days and days of Parliamentary time might be devoted to the detailed examination by Parliament, through its Committee, of every item of proposed expenditure included in the published book of estimates of every public department. After the estimate of every department is approved by this Committee, the Chairman of the Committee solemnly reports this approval to the whole House of Commons, at which proceeding the Speaker is once more on his throne, and the mace once more appears above the table instead of under it. And in theory once again, and indeed often in practice, the House of Commons or any Members of it may challenge or appeal against the decision of its own Committee, and debate any subjects raised in the estimates which were not debated by the Committee; or, as not infrequently happens, debate again exactly the same subject with exactly the same arguments as in Committee.

<sup>1</sup> This happened, for example, to the Liberal Government of 1880-1885, which was defeated in a Committee Vote upon its Budget proposals; to the Liberal Government of 1892-1895, which was defeated in Committee on the War Office Estimate Vote in connexion with the supply of cordite; and to the Conservative Government of 1900-1905, whose defeat at the end of the Parliamentary Session on the Irish Estimates helped to produce its refusal to face the Parliamentary Session of another year.



Again, any of these subjects or details may be discussed when the House of Commons passes from approval of the Government estimates to the voting of money which is to pay for those estimates when approved. But in practice the whole system breaks down because the Government has no time to devote to these subjects, and because the Members of the House itself are interested in what they regard as far more important business. Some twenty days is the minimum which the Standing Orders insist shall be inevitably devoted to discussion of estimate finance upon what are called 'allotted days.' And practically in every year the minimum and the maximum are one. As there are many more than twenty Government departments, or different important votes in the same department, it is evident that the estimates of many departments will not be discussed at all. And as a matter of fact, many sessions and years often go by without the finance of some particular uninteresting department ever being debated by the House of Commons or its estimates committee. Of those which are debated, as I have said, in nine cases out of ten the subject of debate is not finance, but—on a proposal to reduce the salary of the Secretary or head of it by £5 or £50—an attempted impeachment of some particular point of policy or administration.

Finally, when the allotted days have all been filled, a scene takes place only unremarkable because of its familiarity. In one crowded hour of glorious life, on a hot August night, the estimates of all the departments which have not previously been passed, are put specifically one after another from the Chair, and the Committee and the House are asked to approve or disapprove without a word of discussion. A crowd of elderly or ageing gentlemen spend this night from darkness to dawn in pushing through the alternative lobbies of 'yes' or 'no,' and thus registering a series of decisions by which the method of expending three, four, or five hundred millions of Government money is decided without any kind of discussion at all. The



elderly gentlemen find satisfaction for the discomfort of their all-night pilgrimage in the fact that their names have been registered in an enormous series of divisions, each of which can be called as witness to their active and vigilant guardianship of the public purse. The Government finds satisfaction in the fact that it thus gets its money. And the departments concerned find satisfaction in the knowledge that if they have any skeletons in their cupboard, these skeletons have been unrevealed in public debate.

There is no natural reason why the committee stage of the estimates should always be taken in the full assembly of the Committee of Supply in the House of Commons itself, and attempts have been made to obtain a detailed dissection by representatives of Parliament by referring estimates to small committees of named and selected Members. These attempts, however, have in practice broken down. The work is not interesting enough to induce an ambitious Member to attend, nor can any public reputation be obtained in it, as the newspapers take no account of it, and his fellow Members are bored rather than cheered by the pertinacity of any would-be economist. The only spark of public interest which such a system provoked in the year of its trial in 1919 was when the members of one of these committees, after heated discussion, refused expenditure for the Lord Chancellor's bath. And the interest here was less in the campaign of economy than in the nature of the subject economized—whether or no extra facilities should be provided in his new residence for the ablutions of Lord Birkenhead. The bath was restored to him by the House on the report stage without discussion, and with such restoration the new system perished.

Another attempt to restore detailed House of Commons criticism was made by the formation of an 'Estimates Committee.' Every year a committee of Members, some twenty in number, was appointed, who selected the estimate of any department they pleased for critical examination. The heads of the

department came before them, and were cross-examined in every detail of the proposed expenditure. This system also provided little public advantage, for such estimates were only examined weeks or months after they had been issued, and after, as a matter of fact, much of the money had been spent. They were examined under such conditions that the heads of the departments with their expert could always make out a plausible case against untrained, amateur, and inexperienced criticism. And they were examined under such conditions of public indifference that even if they reported adversely against any particular items of estimated expenditure, the public outside was either ignorant of the fact, or, if informed, merely acknowledged with a shrug of the shoulders, an incorrigibly vicious accompaniment of all Government.

There are those who advocate the only real possibility of House of Commons control in detail; that is, examination of the estimates of any department by representatives of the House of Commons before these estimates are finally approved and published by the Government. Such a system was recommended by the Committee of National Expenditure which made sensational reports immediately after the war. But it would be bitterly opposed by the departments themselves. There would be found almost impossible difficulty in distinguishing between questions of policy on which it could have no voice, and questions of extravagance in carrying out a policy. If confined to the latter, it would doubtfully give any advantage over the criticism at present carried on by the experts of the Treasury. If straying into the former, it would cut at the root of the doctrine now tacitly recognized as part of the Constitution, that the Government as a whole, acting through a Cabinet chosen by a Prime Minister who maintains the confidence of the House of Commons, is responsible for the carrying out of policy, which confidence is the test of continuance of such approval.

I have said that no expenditure is lawful except that sanctioned as having first been approved through the acceptance of an estimate. How, it may be asked, is expenditure met which was unforeseen, and must of necessity have been unforeseen at the time when the estimates were compiled? This is secured by means of what are called 'Supplementary Estimates.' At any time when Parliament is sitting, but generally at six months intervals, about July and about February, the Government submits to Parliament details of additional expenses which any department considers it necessary to incur (or, in some cases, which it has actually incurred). These supplementary estimates go through exactly the same history as the ordinary estimates. They are published for Parliamentary and public criticism with explanations of their need, they are passed through the same Committee of Supply, they are reported, if approved, to the House of Commons, and their total is then included in the amount which the Government asks Parliament to grant for the expenses of the year.

How is the actual money granted? Many people unfamiliar with the details of Government finance, and even many Members of the House of Commons, believe that when estimates have been sanctioned, the door of the Exchequer automatically unlocks and the money pours out for all the objects which the estimates set out to obtain. This is a complete delusion. The House of Commons might continue to approve estimates of Government departments year after year, and to any amount, but if no further action was taken, neither the House itself, nor the departments, nor the Prime Minister and Government could obtain one farthing from that Bank of England which is used for paying out Government money, and which would remain as obdurate to all their combined entreaties as its solid granite walls remain obdurate to any desire of the passing stranger to obtain the wealth contained therein.

The first step which has to be taken is to pass a Bill every year through the House of Commons instructing the Bank of England to pay out, either from moneys paid in to what is called the Consolidated Fund, or by such borrowings as are sanctioned by the Chancellor of the Exchequer, an amount of money exactly equal in pounds, shillings, and pence to the total amount which Parliament has sanctioned in voting all the estimates of the year. This Bill is called the Appropriation Bill, and the annual Act, when it has been passed by both Houses of Parliament, is called the Appropriation Act.

Before the Appropriation Bill can be introduced into the House of Commons, a resolution has to be passed in what is called the Committee of Ways and Means, recommending that the amount contained later in the Bill shall be granted for public expenditure. This Committee of Ways and Means is a Committee of the whole House, and sits in the Chamber of the House of Commons. It has the same Chairman as the Committee of Supply, and the same rules of speaking as the Committee of Supply. And it reports its proceedings in the same manner as the House of Commons, which can approve or disapprove of them. The original intention, no doubt, was another safeguard against the authority of the Crown or Executive through which Parliament could examine in detail in Committee why so many tens or hundreds of millions should be granted the Crown or Executive. That function has now vanished, and the resolutions which precede appropriation are now either purely formal, or made the subject of general debate on the character and policy of the Government.

If it is formal, as is usual, the spectator gazes on a bewildering ceremony only tolerable or explicable because each item is the relic of a former age, and records history in its performance. He may see, for example, in one night, the whole process. The House is in Committee of Supply passing an estimate, the mace under the table, the Speaker's chair empty.



A moment later the estimates are being reported to the House itself. The Speaker is in his chair; the Sergeant-at-Arms has advanced up the floor of the House, bowed, put the Mace on the table, bowed again, and proceeded backwards to his seat. The Chairman informs the Speaker in the same Chamber and before the same audience that the Committee has approved of estimates of so many millions, and the House approves of the report by saying 'Aye.' A moment later the Speaker leaves his throne, the Sergeant-at-Arms proceeds again up the House, and with similar bowings places the Mace under the table again, again proceeding backwards to his seat. The Chairman resumes his former position, but is now Chairman of the Committee of Ways and Means, and a resolution is proposed and immediately carried that a number of millions of pounds, shillings, and pence exactly equivalent to the amount of the estimates voted shall be recommended to be voted by the House of Commons. The Sergeant-at-Arms advances again with similar bows, places the Mace again on the table, and bows his way backwards. The Speaker re-enters his throne, the Chairman again leaves his seat, and reports that the Committee of Ways and Means has approved of this amount. The Speaker asks for the approval of the House for this report, and the approval is again given. The Secretary of the Treasury then advances with a series of profound and customary obeisances, bearing in his hand an empty sheet of paper labelled the 'Appropriation Bill,' and presents it to the clerk at the table. It is 'read for the first time' before the House adjourns. The unenlightened foreigner might think that he was witnessing the proceedings of a lunatic asylum rather than that of the Mother of all Parliaments. It is only after explanation that he can realize that these forms and ceremonies are survivals and symbols of a struggle of centuries to maintain the right of Parliament for the imposing of taxation against the Crown.

This Appropriation Bill has to pass through the



various stages of all Bills which ultimately become Acts of Parliament. It has to be read a first time, read a second time, passed through Committee clause by clause, read a third time in the House of Commons, and to go through the same stages in the House of Lords. At any of these various 'readings' several debates can be raised, and in most cases normally are raised, concerning any of the administrative actions and policy of the Government of the day. Finally, the Bill receives the King's assent, and becomes an Act of Parliament. And it is only on the recognition of that assent that the necessary certificate is given which unlocks the door, and allows the money to be paid out for the purposes of supply from the Consolidated Fund.

This Consolidated Fund is merely the banking account of the Government at the Bank of England, essentially similar in operation, and subject to the same laws as the banking account of an individual in his own bank. Money is paid into it by cheques and drafts, and paid out of it by cheques and drafts. When funds are low, as when the money required for expenses has been a greater sum than the money coming in from taxation, the Government borrow from the Bank of England just in the same way as a private customer obtains an overdraft at his bank. These are called Ways and Means advances. Or again, the Government may for a time borrow from other banks, or the general public outside, for a few weeks or a few months. But this borrowing is limited by the amount of borrowing sanctioned by Parliament in the Appropriation Act. Such borrowings are by sale of 'Treasury Bills,' and a varying rate of interest is paid on them. If for any purpose the Government wishes to borrow beyond this amount, it must ask Parliament to pass a Bill authorizing it to do so. And that Bill may be refused by Parliament if it pleases.

Government expenditure is practically never 'side-tracked,' as it were, or set off against Government

profit in any transaction. The profit is paid into the Consolidated Fund, and the expenditure is paid out of the Fund. If a department in any detail made a profit, say, of five shillings, it could not use that five shillings to pay any other detail of expenses. A cheque for five shillings would be paid into the Consolidated Fund, and a separate cheque for five shillings would be paid out of the Consolidated Fund. It will thus be seen that many thousands of clerks are required to keep the accounts of this enormous Fund, and that the amount standing to its credit varies from minute to minute, and from week to week, literally by millions. Into it flow miscellaneous receipts from all over the world; now the product of customs and excise duties, now the money wrung from the income taxpayer, now the profits or receipts from post office stamps or telegrams, now dividends from the shares held by the Government in the Suez Canal. And from it flow an equally miscellaneous variety of payments—the salaries of Government servants, the sums owing to contractors for building great Government works, the construction of a legation or consulate in Chile or Japan, the honouring of the little cheques of the Old Age Pensioners every week in every village in Britain.

All these payments, great and small, are watched by the Controller and Auditor-General from his department. He is responsible to Parliament that the money shall be spent as Parliament directed. He reports to Parliament and the Public Accounts Committee annually appointed for the examination and explanation of such transactions, if in any case the will of Parliament has been in the smallest degree disobeyed.<sup>1</sup>

<sup>1</sup> I have described the transaction of the liberation of money by Parliament, normally accomplished early in August by the passing of the Appropriation Act. Money can be liberated, and is in fact liberated, if and when needed, by the passing of Consolidated Fund Acts following on the giving of a Vote of Credit—that is, an acceptance of a portion of the total estimate required in the Committee of Ways and Means. These

It will thus be seen with what detailed vigilance and severity Parliament has barricaded the treasure of the nation, raised in the revenue, from the wanton or errant hand of kings or governments. It has had long and dolorous experience in the past of the result of permitting kings and governments to dip their hands into the public purse, and use the money as they choose. Many credulous persons still believe that the King can draw money as he pleases out of the taxes to pay for private expenditure or public entertainment. The King can receive not a farthing from the taxes except that which Parliament votes him, and even the bricks and furniture of his palaces and castles are paid for by Parliament in an estimate put forward by a Minister. More people, a little less credulous, believe that the Government have some ultimate power of getting at the national income; that they can secretly, if not legitimately, divert some of it into their private pockets; or in any case openly and legitimately arrange to spend in times of crisis, here, perhaps, extra sums on Dreadnoughts or armaments, there, additional moneys on putting down riots, or work for the unemployed. Both these ideas are illusions. An old school-fellow playfully congratulated Mr. Lloyd George when he was made Chancellor of the Exchequer, on the ground that he had an appointment 'near the pile.' And there are many who seeing the forbidding castellated façade of the Treasury in Whitehall, believe that these stern walls conceal strong rooms and cellars full of gold and Treasury notes signed 'Bradbury' or 'Warren Fisher'; and that the private passage between Downing Street and the Treasury means that the Chancellor of the Exchequer, if he could suborn some bribable policeman, could descend into those cellars and return with his pockets stuffed with metal or paper money.

Consolidated Fund Acts follow exactly the same course and produce the same results as the Appropriation Acts. They are all gathered up and consolidated in the final Appropriation Act of each year.

All this belongs to the region of dreams. The Treasury is only filled with rooms of clerks adding and calculating and writing memoranda on questions of public policy. The imposing signature which terrifies provincial places—'My Lords of the Treasury having considered your application,' etc.—is in nine cases out of ten the work of a humble subordinate official, earning a few hundred pounds a year. The only money there is that provided in the pockets of these officials for their mid-day lunches and their journey home. A cheque on the Consolidated Fund signed by the Chancellor of the Exchequer would be immediately rejected by the Bank of England. So would a cheque by the Prime Minister or all the members of the Government combined. So far as any underhand ways are concerned, Parliament has caulked all possible leaks. Never again can any political corruption come from raids on the public funds carried out without the sanction of Parliament.

Yet, while Parliament has thus established its paramount authority, there are those who assert that it has effectually lost in practice all financial control. In gaining the whole world it has lost its own soul. The series of barriers against which Government was to be sharply brought up in critical examination of national finance, have, in practice, become merely formality or routine, or transformed for other purposes. The apparatus is there, but it has ceased to work. It has ceased to work not because it is impossible itself, but because of the conditions of human nature and the limitations of human effort. No Member of Parliament wishes to bother about the details of finance, still less does he wish his neighbour to bother him with them. There may be stupidities to be exposed, but there are few if any corruptions. And it is by exposing corruptions rather than by revealing stupidities that Parliamentary reputation can be made.

Every year there is the perpetually renewed debate upon the far more vivid and interesting question, not of how money has been spent, but of how money shall



be raised. Every year there are a dozen interesting Bills to be passed or opposed, a dozen impeachments of the Government to be endorsed or denied, a dozen subjects of discussion affecting interests and moving opinion throughout the five nations and around the seven seas. Small wonder that amid the magnificence of such a programme, few have interest, and less, energy, to maintain a little dullish daily nagging upon a department's expenditure of thousands or millions of public money ; and that, having accepted the general principle of approval of a Government while confidence in it is retained, Parliament is on the whole content to throw upon that Government, responsibility for carrying out its business upon reasonably efficient and economical lines.

### (c) THE MAKING OF LAWS

The third function of Parliament is the passing of laws. This is at once more generally understood and less complicated than the other two whose working I have described. But it is still an elaborate and hazardous business for a Bill which has been introduced into the House of Commons to reach the stage when it is at last signed by the King, and becomes the law of the land. All its various stages have to be successively attained within one session of Parliament ; that is, normally in less than a year. It is competing in the scanty time of Parliament during this year with dozens of other Bills each equally desirous of life, and each with friends in Parliament itself and in the country outside, equally or more potent. If it arouses opposition, and especially if it affects financial interests, it will encounter a body of Members obstinately determined to 'slit the thin-spun life,' and who use the 'abhorred shears' not of direct rejection, but of interminable talk on every possible occasion when attempts are made by the friends of the Bill to get a move forward. The result is that of the hundreds of Bills that are introduced every year, but very few attain the haven where they would be, and these mostly in a



battered and mutilated condition. The remainder have perished.

The fact that a huge majority of the House of Commons is genuinely in favour of the Bill makes little difference to the chance of that Bill being passed. Such Bills, for example, as those legalizing marriage with a deceased wife's sister, or giving the vote to women, were introduced year after year for twenty or thirty years, and obtained continual and substantial majorities, but were always in some way submerged or torpedoed at some stage in their journey, or held up until the time when Parliament, having become wearied of its work at the end of the year, every Bill automatically perished with the closing of the Parliamentary session.

In theory, any elected Member of Parliament has the right to introduce Bills, and scores of private Members of Parliament do so every session. Each has his Bill solemnly printed at the public expense, with the names, inscribed on the back, of himself and his friends who are prepared to support it. In practice, although copies of these may be printed in his local newspapers, or circulated among his constituents to show how actively and vigilantly he is carrying out his promises he made to them, very few of these Bills are even ever discussed by the House of Commons. They are not discussed because the greater part of the time of the House of Commons is seized by the Government for what is called Government business; and the House of Commons, although it always grumbles, and sometimes makes an appearance of resistance, is always compelled at last to submit, and give to the Government the time it says it requires. The consequence is that never more than a few Friday sittings, when the House only sits from twelve o'clock to five, and, owing to the week-end habit, attendance is scanty, are devoted to attempts at legislation by private Members of the House.

Members ballot for the right to obtain portions of this time for the Bills they wish to pass; that is to say, at a certain appointed hour, every Member who

wants to introduce a Bill writes his name on a card which is put through a slit into a box, and the Clerk of the House draws indiscriminately the cards from this box, and reads the names out in order to the House of Commons. The first name drawn has a right to the first Friday for his Bill; the second for the second Friday, and so on. But as there are not more than ten or twelve Fridays available, not many more than ten or twelve Bills are even discussed. If a Member is lucky in this lottery, and can introduce a Bill which is generally popular, and which neither the Government nor any body of his fellow Members dislike, and if he possesses the art of appeasing opposition, he may manage adroitly to steer his Bill through a Parliamentary session, and be proud at the end in the knowledge that he has made or changed law. Or his Bill, if popular, may be taken up in its later stages by the Government itself, and given Government time for its passage. But both these circumstances are exceedingly rare. In general it may be accepted that only a Government can pass laws, and that the work of the private Member is confined to the support or criticism of such Bills as the Government introduces during their passage through the Houses of Parliament.

Parliament has devised a system by which no change shall take place in the law without a most careful and detailed examination. Each Bill in its passage has to pass through eleven stages; a first reading, a second reading, a Committee stage, a Report of the Committee to the House, and a third reading stage in the House of Commons; exactly the same number of stages in the House of Lords; and the assent of the King, formally given at the end by his representative asserting '*Le Roy le Veult*,' in a ceremony which takes place in the House of Lords Chamber. At any of these stages, except the last, the Bill may be rejected, and at four of them, the Committee and Report stages in Lords and Commons, it may be substantially altered. If the Bill has a money clause in it, i.e. a clause which involves the spending of public money if it passes, a

separate money resolution has to be passed in Committee and reported to the House. And if the Bill is of a taxing nature, i.e. in any way extorting money from the subject for the expense of Government—such as the annual 'Budget' or Finance Bill, which settles the taxes of the year—it cannot be introduced at all until a resolution has been passed in Committee of Ways and Means authorizing the raising of such money, and approved on its report to the House itself. And the Bill founded on that resolution can in no case propose to raise more money than that which has been sanctioned by the resolution itself.

It will thus be seen with what care Parliament has arranged that changes of law shall be thoroughly discussed before made, and that, especially where taxes are concerned, no imposts shall be smuggled through the House of Commons without full discussion.

In practice, the procedure is considerably shortened. For indeed, if it were not so shortened, hardly any measures of first-class importance would ever pass through Parliament. The first reading of a non-controversial measure is generally a purely formal step in the presentation of a blank paper, with the name of the proposed Bill written on it, by the Minister in charge, or a private Member. Or, at most, it is an operation under what is called the 'Ten Minutes Rule,' by which the Minister is allowed to expound the Bill in ten minutes, and only one speech is allowed in reply. The second reading is a formal debate on the principles of the Bill, which may last more than one day, and in which set speeches are made, full of vigour and eloquence, by the most important Ministers and Members of the House. No word or line of the Bill is altered in such debates. But in the Committee stage, commencing with the first word of the first clause, the whole House of Commons in Committee, or the members of the Committee to whom is delegated the work of dealing with the particular Bill, commence to hammer the Government draft into the actual material of a Statute of the Realm.

A few years ago, practically every Bill had to go through its Committee stage in the House of Commons itself, and as only one debate could be carried on in one room at the same time, the result was a most appalling congestion of business. In consequence of this, a number of large committees were set up, each meeting in committee-rooms upstairs, and often simultaneously; and these committees have the detailed work of fashioning the Bills sent to them. Each consists of some sixty or eighty members, under a Chairman, who sit in the morning, when the House of Commons is not sitting, as well as in the afternoon, and they can thus carry forward the work of fashioning four or five Bills at the same time. There is little, if any, report of their proceedings in the public Press, and eloquence and irrelevant oratory are largely discountenanced. As a result the proceedings are business-like, and in the case of all Bills, except those arousing angry opposition to their passage, the work of construction is probably done far better than under the old method of full discussion of the whole House.

In the work of making a law, the printed substance of the proposed Bill, numbered clause by clause, is taken as the groundwork and any member can move an 'amendment' to any word or line of these clauses. The amendment may propose to leave out a word, a line, or a clause, or to insert new words, or new lines, or new clauses; or to alter words, or lines, or clauses. When any such amendment is proposed, the Chairman has to limit the debate to the subject of that amendment, and if any one begins to talk on any other subject whatever, he is ruled out of order, and, if he persists, is commanded to sit down and be silent. A Member, however, may move an amendment to the amendment, and then the subject of discussion is limited to the amendment to the amendment, and only after that is got rid of can the debate return, first to the amendment, and then to the clause. There is a division on each amendment if it is pressed, and then the debate passes



on to the next amendment, perhaps a line or two lower down, and so on until the end of the clause is reached ; and then the motion is put that the clause itself, as amended or unamended, stand part of the Bill. And a debate can again be raised by the enemies of the Bill against the whole clause, and finally there is a division on that also, and when that is agreed to the Bill has been jogged on one step further by the addition of another clause.

And so the Bill is built up, day after day, in discussion, until all the originally proposed clauses have been amended or rejected or agreed to, and new clauses which have been proposed either accepted or refused, and the title of the Bill finally approved.

And then it has finished the Committee stage, and is reported to the House of Commons, perhaps with fifty or a hundred clauses, some of them old and some of them new. And in the House of Commons on the report stage the same process is gone through again, when new clauses may be proposed, and amendments put down on the paper—in the names of different Members—to different clauses ; or new amendments here, as in Committee, may be proposed at an appropriate time by Members without any notice being given at all. But after a time this stage is also concluded, and the Bill is given a third reading. In this third reading not a line or comma can be altered, but the third reading is a general debate on the principles of the Bill as it has now been modified by Parliament, which are often something quite different from those of the Bill as originally introduced.

The third reading having been approved of, it goes to the House of Lords to pass through similar stages in a similar process. If it is a money Bill, the House of Lords has to pass it through these stages, although it cannot modify it or reject it. If it is an ordinary Bill, the House of Lords may reject it, or introduce into it substantial amendments. And if the House of Commons refuses to accept those amendments, or if it is rejected, the Bill is dead for that session. But if



the House of Commons wishes it to become law, and passes it again through all these stages in the two following sessions, the King signs his approval of the Bill, and it becomes a Statute, regardless of the opposition of the House of Lords.

It might seem to the observer that this cumbrous and elaborate machinery, giving every opportunity for delay, would result in very few Bills being passed through Parliament at all. Except for an apparatus for limiting debate, commonly called the Closure, which I shall presently describe, it is indeed doubtful if any Bills violently controversial as between great political Parties, would ever pass into law. But apart from such statutes as these, it is astonishing how much legislation is accomplished even under this system, on matters which are often violently opposed by special interests affected, or by the conviction and prejudice of a few. Not a few Bills pass nearly every year, often of fifty or a hundred clauses, which at the beginning unfriendly interests outside, or unfriendly groups within the House, have sworn shall never become law. And it is manifest that a Bill with fifty or a hundred clauses, on each of which it is possible to move fifty or a hundred amendments, and to make as many speeches, could always be destroyed, not by the hostility of the many, but by the loquacity of the few. Such Bills pass, however, largely through the influence of human psychology, through the perpetual good-tempered wearing down of the opposition, by friendliness and flattery, and sometimes by a touch of the 'whip' in the exercise of pressure from the Member's constituency not unconnected with the Government 'Whips.' And sometimes with a touch of the carrot, also not unconnected with the Government 'Whips,' in the suggestion of how much the Government would be indebted to the Member for the withdrawal of his opposition, hitherto so conscientiously and ably exercised.

The piloting of such a Bill is a continual and fascinating study in the influences of human nature.

Here one man is conciliated with a concession. There another, in an ill-tempered opposition, is made to appear as if lacking in the decencies of Parliamentary life, or as if suspiciously active in the service of special interests. These interests themselves are often amazed and horrified at the disappearance of the Parliamentary support promised them, and hasten to agree with their adversary while they are in the way with him. And so, in obedience to the common-sense and sagacity which, apart from the bitterness of party feeling, dominates the atmosphere of British political life, these non-party Bills become law; in nine cases out of ten to the advantage of the community, and the good of man's estate.

The exercise of the arts of persuasion and fear is, however, only possible in connexion with Bills mainly non-controversial; that is to say, Bills which do not unite one Party against another on a question which is in the fore-front of the unending political battle. In a case of such controversial legislation, it is almost a matter of honour, and certainly with a sense of responsibility to its supporters in the country, for an Opposition to offer every obstacle, even to the extreme of physical fatigue and discomfort, in order to prevent the Bill passing; and for the Government to call upon its supporters for a similar or even greater superhuman effort, in order to ensure the Bill becoming law.

In a very short time after it has passed its second reading, any question of rational criticism or rational reply vanishes. The struggle passes, as in the case of the outbreak of actual warfare, from the ingenuity of diplomatic argument at the beginning, to the mere brutal test of the rival forces of animal resistance at the close. On the attacking side, amendments are moved, not because they are good amendments or bad, but because they are amendments; and discussion on them, and division on them, must occupy some part of the time of the House. Members are judged not by whether they can argue but by whether they can talk; and the man who can occupy the

greatest mileage without saying anything at all, and without being suppressed by the Chairman for irrelevance and repetition, is the man most dear to the hearts of the Whips who are conducting the Opposition campaign.

On the other side there sits in the House, or loiters listlessly through the lobbies, a great body of intelligent, middle-aged or elderly gentlemen, each triumphantly elected by his constituency, and mostly tormented with the itch of speech. But the Government Whip who is conducting his campaign is equally determined that they shall keep silent. Their duty at this stage is to vote and not to argue. They listen to incredibly foolish arguments; they are taunted with being dumb cattle; every effort is made by the skilful sharpshooters on the other side to draw each of them personally into the encounter; and sometimes human nature gives way under the influence of cajolery, insult, insinuation, or innuendo, and one plunges wildly into utterance. That is a point scored by the other side, although often the Member himself does not know it, and congratulates himself on having delivered a crushing reply which will be reported in his local newspapers in his constituency. The Members of Government in charge of the Bill are themselves in a perpetual dilemma. If they refuse to reply to each successive amendment, or reply in perfunctory manner, the Opposition raise cries of pain like wounded animals, and declare that the House of Commons has never been so grossly treated, and that the old great tradition of debate has gone. If they give long and reasoned replies, the skilled speakers on the Opposition side express great gratitude, and use each argument as a peg on which to hang further debate, dissecting with a kind of owlish wisdom the various points advanced, and asking for further replies to their counter arguments. The Minister who is most successful in these amazing struggles is the one who, while accepting each amendment with great politeness as a serious attempt to

improve the Bill, talks with courtesy and volubility for some minutes without saying anything at all.

Pretty soon the conflict is transformed from the day to the night, and becomes purely one of physical exhaustion on either side. The rule adjourning the House at eleven o'clock is suspended, and Members come down for a trial of resolution and physical endurance. All the long night in the Chamber itself an appearance of debate is maintained, with some one always speaking, though not always any one listening. The lobbies around are packed with recumbent forms of men of importance in their day, who are roused from uneasy slumbers from time to time in order to push through one of the division lobbies for or against some particular amendment, the very words and meaning of which they have no wish to, and will never, know. The two ranks play the regular game on these occasions, each Opposition thinking that it may some day be in the Government, and each Government knowing that it will some day be in Opposition. At intervals there will be sudden scenes of violence which the ignorant spectator will believe to be spontaneous, when, amid cheers and counter cheers and personal epithets and retorts hurled across the House the Opposition leaders will declare that never was a Parliament treated so shamefully, and the Government Leaders retort that never was an Opposition so fractious and unreasonable. At intervals the humorist will take possession, and his still, small voice will provide a welcome running comment in jests which seem, perhaps, more cheering in the arid argument of three o'clock in the morning than when they appear in cold print next day. At intervals, again, nothing will be left in the Chamber itself but sheer lassitude and boredom, while in the dining-rooms below Members, in little groups, often drawn from both Parties, are eating pleasant little late suppers, or early breakfasts of melons and stewed kidneys and grilled bones; or in a breath of fresh air on the terrace, engage in friendly discussion of the fight inside,



while the dawn flames up from the Surrey side of the river.

By the time that the fresh relays at eight or nine in the morning are pouring down to take the place of the jaded combatants of the night, the visible aspect of the 'Mother of Parliament' presents a sufficiently dismal spectacle. The atmosphere is heated and foul, the floor is covered with torn paper, Members are strewn about the benches in unpicturesque attitudes. In the remoter corners, dishevelled, stoutish men, dirty, unshaved, and in crumpled shirt-fronts, are noisily or peacefully sleeping. On the front benches, just separated by the box, the little group of Government and Opposition leaders who have had to keep up some coherence of thought, often on complicated subjects, in the midst of this desolation (for every word uttered in the astonishing conflict is printed in the pages of Hansard at the public expense), white-faced, heavy-eyed, and intolerably weary, are testing the resolution of themselves and their followers, which of them will be the first to give way.

These proceedings call public attention in the country to the fact that there is a real struggle on a great issue. They usually are not fights to a finish, but end in that compromise which is the secret of success in British politics. The Government offers more time for discussion, or some substantial concession to the Opposition if the Opposition consents to honourable terms of peace. If, however, feeling is strong in the country against the Government measure, and the Opposition desires an election, and believes it can win, this insensate competition of physical endurance may be kept up for many weeks or months. During that time the pressure is pretty considerable on all old and, in the military jargon, C3 men, and certainly as a direct result of these conflicts the lives of many Members of Parliament have been injured or shortened. A friend of mine, of early middle age—since dead—was greeted on one such occasion by a sympathetic official with the remark: 'It's



hard on all you old men. This night work shortens most of your lives. Two of 'em died only last Session.'<sup>1</sup>

Huge majorities, all-night sittings, popular support outside, and determined resolution within, would, however, be quite unable to carry any measure deliberately obstructed by any skilful and courageous Opposition, but for the use in some form or other of what has come to be called the Closure. This Closure, for the first time limiting unlimited freedom of debate, was introduced a little over forty years ago as a counter to the attempt by Parnell and his followers to make the legislative machine unworkable. But even if a handful of Irish Members had never proved, by speaking for an unlimited time to unlimited amendments to any Bill, that they could prevent any such Bill passing, it is probable that the changed conditions of the House of Commons would have found some such system necessary. For the growth of democracy, the development of the popular newspaper, and the interest which an electorate of millions for the first time takes in its Parliament and representatives have almost abolished the silent Member—once in so large a majority—and practically compelled every Member to speak. And this interminable

<sup>1</sup> The strain of these remarkable conflicts can be shown, perhaps, by a memory of two days only. In the great struggle over Mr. Lloyd George's Budget of 1909, in the discussion on the Reversion Duty which involved the maintenance of a clear mind upon exceedingly complicated questions of land tenure, we started on the front bench in Parliament at a quarter to three on Wednesday afternoon, and adjourned at nearly ten o'clock next morning. We were almost immediately summoned to a Conference which occupied Thursday morning, with the Treasury officials on amendments, and sat continuously on the front bench again from a quarter to three till nearly eight o'clock the next morning. We then adjourned on a compromise, agreeing that the Opposition should have Monday afternoon for further discussion, on condition the debate was finished about dinner time. In forty-one hours we had thus debated for thirty-six, and spent the remainder in preparation for further debate. Small wonder that the officials, and even some of the protagonists in such encounters have disappeared prematurely from the scene.

loquacity imposed as a compulsion upon six or seven hundred gentlemen, most of whom think they can speak with effect, and all of whom can speak with consumption of time, would have in any case compelled some such method as the imposition of a time limit. The Closure has taken many forms. Each fresh imposition has been fiercely resented by those who thought they stood for the tradition of Parliament. And even after it had been accepted in all other business, its introduction in discussion of Finance Bills, such as the Budget, appeared to some of the oldish and most respectable as the coming of the end of the world.

In its first form it must be confessed that it was sufficiently brutal. In the muddle of a debate, when crowds of Members were tormented with undelivered speeches, a Member of the Government or a private Member would suddenly arise, even while some Member was talking, and move 'That the question be now put.' The Speaker or the Chairman of Committee might accept or ignore such a proposal in his own discretion. But if he accepted it, a division was immediately taken, and if with more than a minimum number of a hundred voting for it, the House of Commons signified its approval, a second division was immediately taken on the subject of debate, and decided one way or other without any discussion at all. And the thoughts of the Member whose speech was thus roughly truncated, like those of the Turk in Carlyle's description of the Paris Convention, remained conjectural for ever.

The method became still more crude and brutal when it was extended from the particular amendment under discussion to the passage of great chunks of the Bill itself; so that a Minister might propose, and indeed often did so successfully, that a whole clause stand part of the Bill, or that two, three, or four clauses should do so, or that all the words down to line 17 or line 23 should do so. In which case, if the Speaker approved, and the Members agreed, a great slice of the Bill would be suddenly passed through

Committee, and scores or even hundreds of amendments swept away, good and bad alike, amid cries of rage and dismay from those who had given notice that they would move them, and had carefully prepared speeches upon them, and were often far from wishing to 'obstruct' at all, but only desirous of making a better Bill.

It was evident that such methods as these of using the 'guillotine' merely brought Parliament into disrepute, and tended to excite reprisals even more brutal from the hands of an Opposition which had suffered from such treatment when, in its turn, it was called into power. It was therefore modified by two substantial improvements, and will be rarely used again in that form. The first is by the establishment of what is called a Time-Table. The Government asks the House to approve of a resolution allotting so many days to the different sections of the Bill; so many to first, second, and third readings; so many to the Committee stage; and generally in detail dividing up these, so that the most important clauses are sure of discussion, because taken at the beginning of an allotted day. The advantage of this system is that the debate is serious instead of frivolous. For if the time-table is so constructed that it allows for important subjects to come first upon each allotted day, these important subjects will be seriously discussed; because no delay or advantage is gained to an Opposition by waste of time in trivial amendments. Whether the talk has been serious or absurd makes no difference to the fall of the axe at the close. There is also this advantage, that as time is thus rigidly limited, the supporters of the Government are under no necessity to keep silent; for, as a great Chief Whip philosophically remarked: 'If I am going to get my clauses anyhow at eleven o'clock to-night, our fellows may as well vamp as the others.' All-night sittings can be avoided, and contests of endurance no longer interest or amuse the public outside. On the other hand it cannot be denied that this new

arrangement furnishes an enormous weapon for the Government of the day. They know that once the number and distribution of allotted days is decided, they are bound to get their Bill. The House of Commons is tied on the rack, and cannot move hand or foot. Some Governments artfully invite the House itself to arrange the time-table on a big Bill, and thereby gain credit from ignorant pedants, who hail this as a concession from the executive to the legislative body. It is, of course, not a concession at all. No Government with any secure support minds in the least what particular clauses are discussed in its Bill, or, within limits, how many days are taken in their discussion. This is merely an enlargement of the size of the rack, or an alteration of the materials of which it is composed. The only important thing is that the victim should be securely bound to it without escape, and that it should be serviceable at appropriate intervals. In other words, that the Government should know that within the boundaries of a session, if it can retain its majority, it will be certain to get its Bills passed through Parliament.

A final and rather ingenious arrangement in part mitigates the rigid pressure of this inexorable machine. This is a method called the 'Kangaroo' Closure. A Minister may move that so many lines or clauses stand part of the Bill under discussion, with the reserving of such amendments for discussion as the Speaker or the Chairman may determine. If this is approved, all verbal and trivial and purely obstructive amendments are swept aside, and the House or Committee, under the guidance of its chief officials, proceeds to discuss only those subjects which are most worthy of its consideration.

By these various methods the British House of Commons has managed to retain its primary function of debate. It has had to make great sacrifices in order that debate may be preserved. The set oration has had to disappear ; so has the right of every Member



to make unlimited speeches on any subject ; so has much of the repeated, irrelevant, but not inglorious utterance of continual impeachment and defence by set orations on each side, which characterized Parliament over a hundred years ago. The day when an orator, however brilliant, like Fox, could come down as a matter of course every night to denounce a Minister, however popular, like Pitt, and be answered by the same arguments set up against the same accusation is gone ; and for ever. But Parliament is determined to maintain Government by discussion. It is the greatest debating society in the world. And no one who has had personal experience of the advantage in the difficult task of making law such discussion can give, will ever lightly acquiesce in the abandonment of such a method.

For whatever its faults—and they are sufficiently glaring—such discussion does, as a matter of fact, provide remedy for numberless injustices, great and small, which would otherwise go unredressed. It does provide a medium or process by use of which Bills are modified and improved—their defects removed, their good elements strengthened in the merciless criticism of each clause and each line of them. It does provide a central arbitrament situated under a kind of sounding board, by which the free expression of the opinion of men of all class, creed, and party, can be transmitted, not only through the length and breadth of England, but over the seas and throughout the world. Men talk lightly of the decay of Parliament. There is no decay of Parliament ; only a present, which is always limited and vulnerable, contrasted with the ideal vision of a past, which in its own day was not less open to criticism. Interest in Parliament waxes or wanes in proportion to interest in public affairs outside. It is unlikely that any other institution will replace it. It has the most remarkable and prolonged history of any popular assembly in the world. It will last so long as England endures.



## CHAPTER XV

### HOW HE PAYS AND WHAT HE PAYS FOR TAXES

**A**LMOST all Governments owe money. The money they owe is called the National Debt. The National Debt is chiefly made by wars. In times of peace most good Governments pay their way year by year, and they also raise sufficient income to pay off, year by year, a piece of the National Debt. So you will see at the end of each war a huge National Debt, and this being reduced year by year until it is very considerably lessened, and the people entertain the most joyful hopes that it will disappear altogether. And then, suddenly, a war comes along, and the Government has to start borrowing again instead of paying off. And as all wars get more prolonged and more expensive, the borrowing each time enormously increases. So that, as in the case of the last Great War, all the nations are staggering under a load of debt too great to be endured.

The National Debt is just the same as any private debt. When the Government wants to borrow money, it persuades people to lend it out of their own private fortunes by promising to pay them interest on it, and, in addition, to pay back the exact amount borrowed. The Government has no power to make people lend it money. It has to persuade the people to do so by giving them a good return in interest as long as the money is lent, and by making them quite sure that sooner or later they will get it all back again. At any time when the Government wants thus to obtain money from private persons the Government advisers try to decide

what is the least possible rate of interest they shall promise to pay, in order to charm, out of the pockets of the public who possess the money, the amount it requires. The more it borrows, the higher this interest has to be, and therefore the greater the burden thrown on the whole public in raising the money through the taxes to pay the interest.

At one time, for example, the Government could borrow almost as much money as it pleased for the promise of two and a half per cent interest on the money borrowed, and repayable at some distant and unspecified time. This meant that all the Government promised to the man who handed over a hundred pounds to it was that every year it would pay him two pounds ten, and that it would continue to do so for all time, unless it bought up the man's stock in the open market at the price he was willing to sell it. And the reason why the man was willing to be content with only two pounds ten interest every year, when he could get three pounds or four pounds or five from other governments, was because he believed that nothing on the solid ground, or in the heavens above, or in the waters under the earth, at least until the day of judgment, would ever prevent the British Government from paying him or his heirs two pounds ten a year; whereas of other governments of 'foreigners' he was not so sure. And because he believed also, and had reasons for his belief—for he saw the transactions going on round him every day—that if at any time he wanted to get back his hundred pounds, there was no need for him to go battering on the door of the Treasury or the Bank of England. It was only necessary for him to sell for a hundred pounds or more in the open market the guarantee which the Government had given him, that is the right to draw two pounds ten a year from that Government until time was swallowed up in eternity.

These golden days are but a memory of a past peace. The Great War tore all such systems and expectations into fragments. The Government found that, in order

to get citizens to lend it their money they had to promise ever increasing interest ; so that, as the war proceeded, they had to offer three pounds ten and then four pounds ten and then nearly six pounds to be paid in interest every year, before they could persuade any one to lend them the money that they required. They found also that the citizens were somewhat shaken as to the belief of the repayment before the day of judgment, and that in order to persuade them to lend, they had definitely to promise to pay back the hundred pounds itself at a certain date, in five or fifteen or forty years. And they found also—so great was the difficulty of borrowing—they had sometimes to promise to pay back more than they borrowed. So that the citizen would perhaps lend ninety-five pounds to the Government, and in return receive a promise not only to get interest every year of, say, four pounds or five pounds, but also to get when the appointed day arrived, one hundred pounds in return for his ninety-five pounds. Sometimes, indeed, the whole attraction lay in the promised increase of the sum lent, with no interest paid at all ; as, for example, in the so-called War Savings Certificates, when any man, woman, or child could walk into a Post Office, and put down fifteen and sixpence and hear no more of it, and five years after could walk into the same Post Office, and the Government would pay him one pound—a feat which must seem to most of those risking it of the same order as the feeding of the five thousand, or the miraculous draught of fishes.

All these organized borrowings of the Government in which repayment of capital is only made after a long term of years, or is not definitely promised at any time at all, belong to the class that is known as the *Funded Debt*. In the old days these debts were called 'the Funds,' and when the interest on them was reduced, and they were all united together, the result was a formation of a united or, in technical language, 'Consolidated Funds,' a title popularly abbreviated into the word 'Consols.' In the list published by every

newspaper, you may see the value, the day before, of a long series of eight to ten different kinds of Government funded debt, which is the value put upon each by persons who are willing to buy a certain quantity of any of these debts at the price announced. As all the Government funded debts equally depend on the credit of the British Government, and none of them, unless specific promise has been made to pay them back in full at a certain date, can claim a greater security of repayment than another, the tendency of them all is to acquire a value on sale in the open market in proportion to the amount of interest which can be obtained by the buyer. And this tendency produces the most lamentable result, in the penalty which is imposed on the man who lent money to the Government some time before the war, when borrowing was easy, and the advantage given to the man who lent money to the Government when it was in a tight place, and fighting desperately for the life of the nation, and scarcely knew how to find the necessary funds day by day. For in the former case the man still only receives two pounds ten for every hundred pounds he lent ; and if he tries to sell his promise of one hundred pounds, he will find he can only get about fifty pounds for it. For the Government has not promised to repay him till the day of judgment ; so that he has clean lost half his capital ; and would have done better to keep it in his pocket, like the man who wrapped his talent in a napkin and hid it in the earth, in the parable. But in the second case the man, for one hundred pounds lent, will receive perhaps five pounds a year instead of two pounds ten with a definite promise also that, however low the value of it falls in the open market, at some specially named date in the future, he will get back the whole one hundred pounds again. So that the man who had money in his pocket when the war began, has been able during the war and after it to have a very pleasant time.

In addition to this funded debt, the Government has also an unfunded debt. The practical difference



between these is that, while the funded debt is made up of money borrowed, the repayment of which may be postponed indefinitely, or fixed at a definite future date, the unfunded or floating debt, as it is called, consists of a kind of hand-to-mouth arrangement, by which the Government borrows for a few months, or even for a few weeks at a rate of interest calculated by months and weeks, and at the end of these months or weeks either pays back the money or renews the obligation. There is no essential difference between borrowing by the Government from private persons or companies, and the ordinary operations of money lending. The comparison with the funded debt would be, if you went to a money-lender, and agreed to pay him interest for any money he lent you, and either pay the capital back in so many years time, or not be obliged to pay the capital back at all, so long as you continued to pay interest. The comparison with the unfunded debt is the more recognized method of money-lending, where you borrow the money for a few months, paying interest upon it, and at the end either pay the money back, or persuade him to lend you the money again. This floating debt is mostly either borrowed in what are called Treasury Bills, or what are called Ways and Means advances from the Bank of England. These Treasury Bills are mainly 'taken up' by the banks and the big financial companies, who can thus put any money deposited with them, or which they have on their hands for a time, into such condition that the Government will pay interest on it day and night while they are borrowing it, and yet they can get it back if they want it in very few days' time. But a Government with an enormous quantity of these Bills to be redeemed or renewed is in very much the same position as a man who has lent more than his income to a money-lender. For if it is not in a position to pay them off, it has to be continually borrowing again. And if those who have lent to it wish to use their money otherwise, it has to be continually coaxing them, or some alternative money-



lenders, by higher rates of interest or other advantages—a very pleasant thing indeed for those with money to lend, but a very mournful thing for those who have to pay.

In one sense it seems absurd to talk of the Government with a 'debt,' and 'borrowing money.' For the members of the Government are limited to a small number who may have little fortunes or be poor men. And even suppose they could pledge Government property, such as land or dockyards or buildings owned by the Government, that property, if sold like a bankrupt estate, would provide an almost negligible dividend on the total National Debt. When we say that the Government borrows money, what we mean is that the British people as a whole, through their representatives, ask for this money to be lent to them by private persons, and give as security for payment of interest and ultimate repayment of capital, the whole value, present and future, of all the property, private or public, of the British Isles. There is, indeed, no definite signed mortgage, such as that which would be given on a private borrowing transaction on security. The Government issues no forms to be signed by every citizen before a loan is issued that he will guarantee his share of the burden out of his own property. There is nothing to prevent a Government from refusing to pay any more interest on its debt, or even repudiating its capital, both of which have been solemnly promised by a previous Government ; and, indeed, such repudiations have been frequent in the history of many short-lived revolutionary republics, or when, as in the case of the confederate bonds issued by the Southern States in America, the very Government which promised to pay has been destroyed. But if the British Houses of Parliament with the assent of the King, passed a law to-morrow that not another farthing of interest should be paid on all the National Debt, nor should the capital be returned, those who had lent money to it on the faith of its word would have no redress from it at all. They could not, as in the case of privately

contracted debts, go to any legal tribunal, such as the County Courts or the High Courts of Justice, and ensure that their money should be returned to them.

Two things only prevent the carrying through of such a transaction which, however immoral, is certainly not illegal. The one is the sense of the wrongfulness of breaking a promise solemnly made in the name of a nation to individuals, even though that promise may mean the payment, by remote descendants of those who first made it, of a yearly tribute to the remote heirs and descendants of the man to whom it was first made. And the other, and perhaps more effective, consideration is a knowledge that when once any Government has repudiated its debt, nobody will ever be likely to lend it money again for fear of a repetition of the pleasant experiment. It has put itself outside the communion of civilized nations, and it can henceforth only proceed through bankruptcy to ruin.

In peace time all wise Governments attempt to pay off the National Debt by instalments. Every year, that is to say, they extort from the taxpayer, in addition to the money required for Government business service, two other substantial items—the money required to pay the interest on the debt itself, and the money required to pay off a piece of the capital of the debt. This last is paid into what is called a Sinking Fund, and the Sinking Fund, when the money is paid into it, is at the disposal of the Treasury, to buy up debt from private individuals in the open market as cheaply as possible, and then to cancel it; just as you may buy up the promise to pay from a money-lender and be free. In the case of debt which is not definitely arranged to be paid off at a certain date, the Government has to pay for it the same amount as the ordinary purchaser in the open market. It has no means of compelling the owners to sell. And the result has been that at some time in the past, in trying to purchase consols, as they were called, it had to pay as much as one hundred and ten pounds or one hundred and fourteen pounds for every one

hundred pounds of debt thus cancelled. Whereas to-day it can buy as much of the same consols as it pleases for about fifty pounds cash for every one hundred pounds worth of debt.

In the days before the war there were two Sinking Funds. The first, called the Old Sinking Fund, was made up of all windfalls which came to the Treasury whenever in any year Government income exceeded Government expenditure. Thus, if the taxes had brought in more to the Government than the Government had expected a year before, or if the Government expenses had proved less, there would be a balance on the right side of many millions. And when the accounts were made up at the end of March every year that balance, if it existed, could not be spent by the Government, but 'automatically,' as they say, by law went into the Old Sinking Fund, and was used by the Treasury to buy up and cancel debt. Unfortunately, the automatic process has very rarely been carried out, owing to the supreme and unchallengeable power of the Parliament of the day, which can never be bound by the Parliament of yesterday. This is an example of one of the chief facts which I am trying to demonstrate in this book; and it is rarely recognized. A Parliament, for example, in the most solemn terms, might pass a law, say, that for all time men and women over seventy should receive grants of Old Age Pensions. And the year after Parliament might decide that no more pensions should be given. And the aged men and women could appeal neither to the Courts of Justice, nor to the Constitution, nor to any super-Parliamentary power against the violation of that promise. And exactly the same happened, though in a less generally unjust and irritating manner, in connexion with Parliament's decision in the matter of the Old Sinking Fund. Year after year, whenever a Government had a comfortable balance of this nature, Government found the temptation too great to divert this balance from the Sinking Fund, where it ought to have gone, to meet some of their expenses.

And though certain advocates of pure finance, and the maintenance of promises, always protested, the electors outside, upon whom the support of Government and the Members depended, knew nothing and cared nothing about these things; the very terms, indeed, being unintelligible to them. So that instead of being inclined to denounce what was called 'raiding the Sinking Fund,' they felt more inclined to cheer the sentiment of a popular exponent of finance, who declared amid applause: 'They talk to us about a Sinking Fund and a Floating Debt. Gentlemen, what we want is a Sinking Debt and a Floating Fund.'

In addition to these windfalls which might or might not occur (for many years the boot was on the other leg, and there was a deficit in the nation's accounts rather than a balance), the New Sinking Fund was created, into which was paid a fixed sum every year; twenty-eight or twenty-four millions raised through the taxes included in the anticipated estimate of expenditure, and devoted to debt redemption. This new Sinking Fund occupied exactly the same position as, in a case of a man who owes money to another, the agreement of the debtor with or without legal compulsion, to pay off so much a week or a year until the debt is all gone.

By the use of these two funds, but for foreign wars, long ago the debt would have been all gone. I am not, in this book, criticizing the policy of any or all these wars. I am merely pointing out that in every case the Government has to borrow money to pay for them, having no money of its own adequate to their cost; and that money has to be extracted from the pockets of private persons, who would otherwise have it to use themselves. So that long after the war is over, and the tumult and the shouting has died, and every man who approved of it, or who fought in it, has either vanished from the world, or is merely living as the ghost of a dead past, the children's children of those whose hearts once beat so high over its changing fortunes of desperate combat, are engaged in the dull



dreary work of paying out money for the cost of it, which otherwise they could spend on their business or their pleasure. Happy is the man or the nation which owes no debt to others, and happy the time when the ancient prophetic vision may be fulfilled : 'He maketh wars to cease throughout the world ; He breaketh the sword and snappeth the spear in sunder, and burneth the chariots in the fire.'

The payment of interest on National Debt, with the repayment of capital through the Sinking Fund, is only one of the many requirements of any Government for which it has to extort money from private pockets. The appalling dimensions to which that debt has attained after five years of such war expenditure as the world has never seen, makes that repayment overshadow all others. But if some philanthropist would repay that debt altogether, the Government would still be compelled to raise money through taxes to carry on its various works. It has to pay for an Army and a Navy, not only for the protection of these islands, but to be used in the enormous tracts of land which has been acquired in two hundred years of adventure all over the globe ; to suppress revolts from those who, for some reason, dislike British rule ; and to defend these possessions from attack from outside. And there has never been a single year in which, in this enterprise, somewhere or other, some British soldiers have not been fighting against such revolt or invasion. It has to raise money again for the large grants which it gives to the local authorities which I have already described ; as, for example, the maintenance of the police, the carrying out of a universal system of free elementary education, with additional grants to make higher education cheap, if not entirely free ; and the grants it gives to those who administer the Poor Law for certain specific services.

Again, it has to raise money for its own philanthropies, of which the most important is providing pensions for the old and, at the moment, giving a big



bonus to every man who builds a house in the country, even if that house is built for himself—a policy which may be defensible, and is defended by men of intellect, but which would have been regarded by our forefathers as stepping straight out of a lunatic asylum. And it has to raise money for the maintenance of all the public departments, with their servants, who have to be paid ; who are mainly engaged in carrying out laws which Parliament, from time to time, has commanded them to administer, with armies of inspectors and experts, and secretaries and clerks, who are supposed to be encouraging the people to walk in the way of happiness, health, and virtue, and to discourage the forces which make for disease and vice and crime. And, finally, like the dog who has to feed on his own tail, it has to raise money for the purpose of keeping going the machine of raising money ; unnecessary, perhaps, in a perfect state, where every individual would hasten to pour into the Treasury, before even he is asked, any amount which is demanded of him for public services ; very necessary in the present imperfect condition of human nature, where, first, the man has to be informed what taxes he is compelled to pay, and secondly, this money has to be squeezed out of him ; and thirdly, he has to be prosecuted and otherwise tormented until he has responded to the squeeze.

Practically all this money is raised by taxes, and these taxes are too various to be described in detail. They may be first roughly divided into two classes. There is the class which is called ‘direct taxes,’ in which the general principle corresponds to the naked action of the highwayman. Only, while the individual brigand says : ‘Your money or your life,’ the Government says : ‘Your money, or fine and imprisonment or sale of your goods to pay for its demand.’ This is an intelligible method, if a distressing one—honest, defiant, uncompromising.

The second is that of indirect taxes, where you are

fleeced without you knowing it. These arrange that you shall only be able to buy certain commodities on condition that either you in buying them, or those who sell them to you, shall pay a certain amount of money, in proportion to the quantity that you buy, to the taxes of the country.

The system seems at first sight quite absurd ; because, first, why should you only be allowed to buy some things on condition you pay a tax on their purchase, while other things very similar you are allowed to buy without any tax at all ? For example, at one time you were allowed to buy potatoes without a tax, but if you wanted to buy bread, you had to pay a tax on it. And yet there seems to be no particular virtue in potatoes, or vice in bread, which should penalize you in buying one, and let you off in buying the other.

And secondly, these indirect taxes bear no kind of proportion to the income of the family, and, indeed, put a special penalty on the poor and persons with large families. So that in one case, in direct taxation such as an income tax, abatements and allowances are made for a large family, and a man who has many children pays less income tax than a man who has none. In the other case, if a man has to pay taxes in proportion to the quantity of, say, tea or sugar or bread that his family consume, the larger his family the more he has to pay, because the more of this stuff is required. And while the bachelor may kick his heels lightly, and rejoice that he is escaping taxation, the man with the same income and an extra large family not only has to pay more for the support of his family to landlord and tradesman, but more, in addition, to the Government of the State, because the Government will not let him buy the commodities his family needs without paying them so much for every pound he buys as a condition of buying them. And Government arranges a most elaborate and costly apparatus of men, guarding all the ports of the country, and examining warehouses and factories inland, to see

that he shall not, under any circumstances, get a pennyweight of any of these things except there shall first be paid to the Government the money due on these things before he buys them.

And a third argument against this indirect taxation is that if they are imposed on certain commodities, any one who has intelligence and vigour enough to buy similar commodities which are not subject to these taxes can escape them altogether, and thus evade the payment to the State which his neighbour contributed. As, for example, in the case I have already mentioned, at the time when there is a tax on bread, if a man, in a desire to evade the extortions of the Government, is content to live on potatoes, carrots, cauliflowers, and the like, he can snap his finger at the Government, being legally evading the taxation which is designed to be imposed upon him. Whereas his neighbour, who is less enterprising, and maintains a diet of bread, will be paying contributions to the State all the more increased in quantity because the vegetable eater has dodged his share.

Considerations such as these have led many wise men altogether to condemn this system of indirect taxation, and to recommend that money raised shall only be done by the Government by taxes on income itself, with or without rebatements for wives and families. Governments, however, are always favourably inclined to indirect taxation for the special reasons that the majority of mankind so little understand these questions as to be quite unaware of the fact that when they buy an article thus taxed, they are paying this contribution to the Government. If they buy, for example, a packet of tea, and the cost rises because tea is taxed, they think that it is the grocer that is swindling them, or the tea-merchant that wants more money, or the man who is growing tea in China or Ceylon who is trying, and successfully, to rob them of an increased amount. And they are so far justified in this belief by the fact that in the cost of such a thing as tea, perhaps a dozen other

elements enter into calculation besides the Government impost. So that, for example, if you had a good tea harvest, while the Government tax increased, the price of tea might go down instead of up, and every one might say: 'Great is the Government. By putting a tax on tea they have reduced the price of it.'

The only way that indirect taxation could be made as unpopular as direct, would be by the method which demonstrated to every one what really happened; if, for example, the tax was levied in such a form as that the purchaser who desired to buy a pound of tea should, first, have to go to a Government office and pay so many pennies for a 'permit' to buy it at its market price untaxed; or if at the grocer's itself you saw two notices, say (for example), 'Tea, 1s. 4d.,' 'Government Tax, 8d.,' and the purchaser was only allowed to get the tea at 1s. 4d. on the condition he pays 8d. to the Government, in a kind of Government money-box on the counter. If such a system were established, it is probable that no Government could maintain indirect taxation for twenty-four hours. In the absence of such a revelation of the truth, the British, like every other Government, obtains a substantial revenue from this source.

These indirect taxes vary from time to time. The great bulk are provided by taxing what are supposed to be the two great luxuries of the masses of the people—tobacco, and liquors containing alcohol. There are also indirect taxes on tea, sugar, coffee, and cocoa, and there have been taxes on wheat and flour and other cereal substances.

Each year Parliament decides in the Budget how much tax shall be levied as a condition of the sale of so much of each taxable commodity; so much, say, on a gallon of whisky, or a barrel of beer, or a pound of tea, or a hundredweight of sugar. And the tax is imposed from a certain date named by Parliament, and continues to a certain date about a year afterwards, unless Parliament decides to alter or remove it.

People talk roughly of a tax on sugar, or a tax on beer, or a tax on tea, but of course beer and tea and sugar are dead things, and have no power of paying money at all. What is meant is that before, say, the barrel of beer can be taken out of the cellar where it is stored to be sold to the public, the owner of the barrel has to pay so much to the Government as a condition of taking it out; and if he does not pay he either cannot take it out at all, or he will be prosecuted for taking it out without having paid that amount to the Government. He is supposed to get the amount back by spreading the charge he has paid in small amounts upon every glass of beer which is drunk from that barrel. Some say he always does so, and others argue otherwise. But no one doubts that he will do so if he can.

These taxes are collected by the Department of Customs and Excise. The Customs waylay the trader as he enters the ports, and hold up articles which are being brought in upon which a legal duty (i.e. tax) is paid until the trader pays the money for the right to sell it. There are many ways of thus paying the amount required. The trader may have the stuff on his ship, pay a cheque for the amount required, and then sell it freely as he pleases. Or he may place his goods in what is called a bonded warehouse, from which nothing can be removed until the tax is paid. But when it is so paid, the goods are 'taken out of bond,' and after that may pass through perhaps a dozen hands of merchants and shopkeepers without having to pay another tax. In the old days, when duties were much higher on many more articles, people endeavoured to evade paying them by smuggling. Cargoes of French laces or Holland gin were landed at stray places on the coast, and swiftly taken inland to evade the 'preventive men' who were endlessly watching them. But to-day, with every ship chartered, and the use of the wireless and telephone, such smuggling into England is almost extinct, although it takes place on the borders of countries abroad. There



are Customs Officers at every port examining the bills of lading, that is, the list of the goods of all sorts that the vessel contains, and with a right to examine the cargoes also ; and by these means the legal revenue is obtained from foreign imported goods.

The Excise collects the similar Government revenue from the articles upon which similar taxes are laid which are made in this country. There are officials all over this country who have to see that none of these goods are made and sold without the appropriate 'excise' duty being paid on them, and similar bonded warehouses where goods are stored, and a similar process of 'taking out of bond' is carried through.

The ordinary method of the Government taxes is to provide equal amounts of taxation in customs and excise on the same amount of the article. Thus, the same amount will be paid on whisky entering through a London port through the Customs as on the same amount of whisky distilled in the Scottish Highlands. In general it may be said that while there are many articles on which customs are levied but no excise, because they are not produced in this country at all, such as tea and tobacco, there are no articles on which excise is levied with no customs. When a customs duty is put on an article which is produced in this country, with no similar excise duty, or with a lower similar excise duty, the system is called 'protective taxation,' because it 'protects' that article, or in other words gives an advantage to the people who make it in this country over the people who make it abroad. And whether or no a Government should levy such protective taxes, or on what article it should levy them, has been a subject of violent controversy for the past two hundred years all over the world, and seems likely to excite similar controversy for at least an equal time to come.

Direct taxation, that is the sums levied on men directly, and not on permission to sell goods, is collected by the Inland Revenue which occupies Somerset

House, the huge building which was once a Royal palace, stretching enormous along the banks of the river, judging and condemning most of the modern architecture round it. This Board of Inland Revenue has also branches all over the country where the taxes are collected locally. Every one with more than a certain income pays income tax, more or less in proportion to that income, though with such a variety of 'abatements' on the one hand for such things as wife, child, or life insurance, and increases on the other in a super-tax more and more steeply the greater the fortune, as would require for full explanation a volume at least the size of this book. Generally it may be summarized that the prevailing idea is that men with small incomes and large family expenses shall find the wind tempered to the shorn lamb, whereas the men with large fortunes shall pay, not in direct proportion to the amount paid by men with small, but at a continually increasing rate of payment, leaping up as their fortunes leap above certain standard figures.

The second great series of direct taxes are the Death Duties. These also are rather complicated in character, split up into legacy duty, estate duty, and others. But in general they may be described as attempts to intercept on the death of the owner of any property or fortune, a certain part of that property before it passes to his heirs or descendants. And here also the principle of graduation is maintained, and the larger the fortune the greater the proportion to be paid upon it by these heirs and descendants to the estate before they are allowed to receive what remains. These also are collected by the Inland Revenue, which keeps a wary eye on every rich man dying, or likely to die, with a view to death duties; and greatly rejoices when the sudden decease of some millionaire provides an enormous accession to its revenue. But it is also fair to say that it keeps an equally vigilant eye on the rich men who are alive and flourishing, with a view to extracting every legal farthing from them in income tax and super tax. So that the rejoicing of the depart-

ment that deals with death in such unfortunate occurrence is tempered by the sadness of the department that deals with life, and recognizes that when its body-snatching colleagues have taken, say, forty per cent out of a fortune passing at death, they have forty per cent less income from which to extract income tax in the future.

There are many other direct taxes, some survivals of the past, like the old Land Tax ; some temporary and appropriate to the war, like the Excess Profits Tax ; others raising money by licences on what are regarded as luxuries, such as the keeping of men-servants, the use of crests and armorial bearings, the use of sporting rifles, the right to brew and sell alcoholic liquors, and the right to keep a dog. All these together, however, form but a small part of the revenue of the country, and are of little interest except to those who pay them. The three great mainstays of the revenue required by the Central Government of England are the taxes on the incomes of all except the poor, the taxes on the property that passes at death, except that of the poor, and the taxes on certain commodities in general use by the rich and poor alike.

## CHAPTER XVI

### CONCLUSION

**H**ERE, then, in outline—not in description of theory, but in actual working—is the Government of England.

In discussion or criticism two things must always be remembered. The first is that this present system inherits from an unbroken tradition of successive centuries and swings back into foundations laid in an entirely different society. It is true that the organizations thus transmitted from one generation to another have been from time to time pulled about, modified, relieved of some functions, changed with others, adjusted to fresh conditions. But there has never been a clean, new start, never a revolution with a proclamation of a 'Year One'; never such fashioning in a few weeks as that performed by Napoleon in the creation of the Code which still rules France to-day.

The Parliamentary debate is a literal continuation, with but slight modifications, of procedure of the debates which assailed Charles I's Government and were found by Oliver Cromwell too tedious to be endured. The Assize Judges inherit direct from Henry I, the Justice of the Peace traces his spiritual ancestry to Edward III. He may be a small baker in an obscure street of a provincial town or village. But he inherits to-day the old traditions unbroken, and performs many of the old functions which were once the mark of semi-independent owners of great lands and territories. The Cabinet, which is the dominant Government of the day, is only a Committee of the

Privy Council, that is, the secret Council of the King, which he appointed once to advise him on points of policy; which he would then carry out, often in defiance of any other man's will. The Archbishop of Canterbury, inhabiting a palace eight hundred years old, still takes precedence over any other of the King's subjects as a survival of a time when he represented the united religion of every person in the country; when that religion could appeal to an international Court and authority against the acts of kings and emperors, and when religion and the power of its officers was much the most important thing in the world. The drab Town Council, with its plain-coated members, or the picturesque Town Council, with its red-robed aldermen and decorated mayor and great gold chain of office, are alike descendants from the days when the little towns, gathered together for protection, could shine out like little lamps amid the darkness and confusion of encompassing forests and marshes. Even the very humdrum Guardians of the Poor, in their queer, plain white-washed offices, can trace an unbroken line back to the days of great Elizabeth, when the principle was first defiantly established that no English parish, so long as it retained any possession at all, should allow any of its members to perish from hunger and cold.

And the second point to remember is that this continued modification of ancient institutions has by no means reached finality in the year of our Lord 1921. What I have been describing in these pages is but a cross section of a process of ever-hurrying change. The change may be for good or for evil. There are many always who are moved to cry out: 'Cannot we at last agree that we have reached stability? Cannot we settle down now to work our institutions instead of being continually impelled to pull them up by the roots and produce alteration and disturbance?' Many of these rail against individuals or organized parties which seem to them to be creating unsettlement.



But it is not individuals and organized parties who are responsible for unsettlement. It is the inexorable and adamant law of a universe which has been constructed not as a region of rest but as a region of change.

'Time like an ever-rolling stream,' not only, as the poet declares, 'bears all its sons away.' It also bears away everything created by its sons—the thoughts, the dreams, the ideals, the forms of government, the very physical habitations of men. Humanity can neither set out on a fresh start regardless of the past nor declare that the past shall remain unaltered. The first case has been tried in many revolutions, and always the past has crashed back again, refusing to be extruded from life, and revealing still the domination of the living by the dead. The second case has been tried by many benevolent autocracies who think they have reached conditions of stability and equilibrium. But the little seeds of change have worked their way through the darkness without any definite human encouragement; and after a time it is found they have upheaved the smooth pavement or brought the mighty building into dust.

The institutions of England *work*. That is their chief justification. There is no logical perfection about them. There are a thousand faults and anomalies within them. Nothing is more easy than to poke fun at them. And indeed they have always been the objects of scorn and laughter of the satirist and cynic, from the day of Shakespeare's undying description of Mr. Justice Shallow or Dogberry and his watch, to the day when such pleasant writers as Mr. Chesterton and Mr. Belloc can describe, in less genial fashion, the corruption and futility of the Government of England.

You may make as many criticisms as you please of the dreary and almost farcical drip of Parliamentary debate, of the influences so far from ideal or disinterested that move public men to action, of the futile pomposity of local councillors and their wives, of

the grotesque folly of a system which chooses judges from successful advocates who receive large fees to defeat the ends of justice.

But under such a queer, complicated arrangement, maintained with all the queer, complicated motives which fill the lives of men, you have a system which gets so many millions of men and women and children out of their beds in the morning and engaged in something like work sufficient to maintain them during the day, and at night returning to sleep without any profound sense of fury that they have been treated with fundamental injustice, or that the oppressions they suffer from Local or Central Government are too intolerable to be endured.

It is the absence of this feeling alone that preserves present Society in being. The universal growth of this feeling would shatter Kings, Constitutions, Parliaments, Governments, however much backed by the apparatus of suppression or terror. If the people as a whole thought at any time that redress for individual injuries could not honestly be obtained in the Courts of Law, or that the Local Government or the Central Government would impose upon them taxations and inequalities against which they could appeal to God but never to man, the country in such a state would be fast hastening to calamity or revolution.

It is a magnificent platitude which it has taken the world thousands of years to learn, which is always being forgotten in the progress of human folly and has to be learnt again in fire and blood, that Government can only rest on the consent of the governed.

We can look for continual improvement; not without many reactions and disappointments. The history of the progress from the past gives great hope of a better future. The Town has arisen into newer and cleaner life from the corruptions and squalors of its previous condition. Parliament to-day is a gathering of representatives of all classes of the people, freely chosen by the electors of all classes. A vast apparatus of the education of boys and girls,

and, later, men and women, is creating literally a new race ; for the first time possessing the equipment to take intelligent interest in the conduct of human Society. To this equipment must be added desire. Given that desire in an educated Democracy, and there is no limit to the improvement of the world. That experiment has never yet been tried on the solid earth. The Greek and Roman civilization rested on a basis of slave labour. The Greek Democracy had no real claim to be called a government of universal free citizens. To-day the experiment is being attempted, for the first time, of establishing a community in which each man and woman is a citizen and every man and woman free. Those who criticize the first results of so amazing an enterprise may be urged to a little patience. The time has been so short, the issues so confused, the inheritance of bad things or dead things from the past so hard to remove, that it is difficult even now to realize that the new start has begun.

More and more, with each generation pressing into the great adventure, will this new spirit be working. More and more will the rulers of men find themselves responsible to a community which will be indifferent to fine phrases, birth or wealth, assertion of power, or anything but the revelation of honest service for the communal welfare.

Institutions may fade and change. The processes may fill the air with the noise of violent controversy. Some will die ' not having seen the promises.' Others will die doubting if any ' promises ' will ever be seen. But the work continues : towards the triumph of intelligence over disorder, and of compassion over hatred and disdain. The people are not wandering aimlessly in the wilderness, but set on a journey towards an end. That end implies Government as a complete fulfilment of the popular will, and popular will as finding complete expression in Government—in a community where the interests of each is identical with the interests of all ; in a new earth, if not a new heaven, wherein dwelleth righteousness.

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